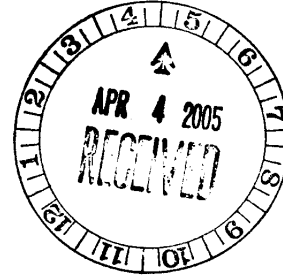


April 4, 2005

213682

Via Hand Delivery

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K St. N.W.
Washington, D.C. 20423



RE: STB Docket No. 42071, *Otter Tail Power Company v. The Burlington Northern and Santa Fe Railway Company*

Dear Secretary Williams:

Please find enclosed for filing the original and ten (10) copies of Complainant's Supplemental Reply Evidence in Response to the March 1, 2005 Supplemental Evidence of BNSF Railway Company (Public Version) in the above referenced proceeding. Also enclosed are three (3) diskettes containing the electronic version of the written text in PDF.

An extra copy of Supplemental Reply is enclosed for stamping and returning to our offices.

Should you have any questions regarding the foregoing, please do not hesitate to contact the undersigned.

Sincerely,

Nicholas J. DiMichael
Jeffrey O. Moreno
Counsel for Complainant

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cc: Counsel for Defendant

BEFORE THE
SURFACE TRANSPORTATION BOARD



OTTER TAIL POWER COMPANY,

Complainant,

v.

BNSF RAILWAY COMPANY,

Defendant.

Docket No. 42071

ENTERED
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Public Record

COMPLAINANT'S SUPPLEMENTAL REPLY EVIDENCE
IN RESPONSE TO THE MARCH 1, 2005 SUPPLEMENTAL EVIDENCE
OF BNSF RAILWAY COMPANY

*ORIGINAL
PUBLIC*

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I

COUNSEL’S ARGUMENT AND SUMMARY OF EVIDENCE

PART I

COUNSEL'S ARGUMENT AND SUMMARY OF EVIDENCE

Complainant, Otter Tail Power Company ("Otter Tail") hereby submits this reply in response to the Supplemental Evidence of BNSF Railway Company, submitted on March 1, 2005, in response to the December 13, 2004 order ("Dec. 13th Order") of the Surface Transportation Board ("Board"), as clarified in a February 18, 2005 order. This submission adheres to the format prescribed in the Board's March 12, 2001 decision in STB Ex Parte No. 347 (Sub-No. 3), General Procedures for Presenting Evidence in Stand-Alone Rate Cases.

A. BNSF has not Presented a Feasible Operating Plan.

1. BNSF's segmented operating plan fails to capture the complete impact of adding 85 million tons of coal to the OTRR.

In the December 13th order, the Board directed BNSF Railway Company ("BNSF") "to file supplemental evidence showing the effect [upon the SAC analysis] if the disputed southbound coal traffic originating south of Cordero were *included* in the traffic group." Dec. 13th Order at 2-3 [emphasis added]. In response to this directive, BNSF has added to the stand-alone railroad, known as the Otter Tail Railroad ("OTRR"), 85 million tons of coal that originates at mines south of the Cordero Mine and is interchanged with the residual BNSF at Converse Junction.¹ However, BNSF's operating plan is based on a segmented analysis that fails to capture the impact of this additional coal traffic upon any line segment of the OTRR beyond the Powder River Basin ("PRB").

¹ At page III.A-4, note 3, of its Supplemental Evidence, BNSF asserts, without any citation, that "The Board has asked the parties to base their supplemental evidence on the coal traffic group in Otter Tail's 'alternative' case...." In fact, the Board imposed no such limitation in either its December 13th or February 18th orders requesting supplemental evidence. In order to so limit the evidence, the Board would have to have rejected Otter Tail's revenue division methodology, based on evidence of actual divisions, a subject which the Board did not even mention in either decision. Based upon its erroneous assertion, BNSF has not submitted an operating plan for Otter Tail's "base" case traffic group in its supplemental evidence.

Otter Tail has noted throughout its evidentiary submissions in this proceeding that BNSF has failed to present an operating plan based upon a complete model of the OTRR. Although both BNSF and Otter Tail have now employed the RTC Model to develop their operating plans, only Otter Tail has modeled the complete OTRR on the RTC Model. In contrast, BNSF has chosen to model just two unconnected line segments between Oriva, WY and Converse, WY, and between Glendive, MT and Fargo, ND. BNSF chose not to model the SARR from Oriva, WY to Glendive, MT and from Fargo, ND to Big Stone, SD.² See BNSF Reply Evid. at III.B-7 to 8 (filed Oct. 8, 2003). In modeling just two unconnected segments on the OTRR, BNSF has not properly linked the traffic flows between the various line segments and is unable to measure the impact of changes that occur on one line segment upon other line segments. See OTP Rebuttal Evid. at III-B-25 to 27 and III-B-40 to 42 (April 29, 2004). BNSF perpetuates this faulty methodology in its supplemental evidence.

BNSF incredulously asserts that the addition of 85 million tons of coal on the PRB line segment will not impact any other line segments on the OTRR:

Since the traffic added to the OTRR traffic group for purposes of this Supplemental Evidence used only the OTRR's PRB lines, BNSF did not have to modify its capacity assumptions for any part of the OTRR other than the PRB lines.

BNSF Supp. Evid. at I-4. Therefore, in its supplemental evidence, BNSF has chosen to update its evidence only for the line segment between Oriva, WY and Converse, WY, by adding the additional coal to its RTC Model of just that segment, without considering any effects upon the other three segments in BNSF's analysis of the OTRR.

² BNSF did run a single train over the Fargo to Big Stone line segment on the RTC Model, but did not otherwise model all of the traffic on that line or link the RTC Model of that line segment with the RTC Model of the adjoining line segment from Fargo to Glendive.

In taking this position, BNSF directly contradicts statements that it made earlier in this proceeding. In its October 8, 2003 Reply Evidence, BNSF in fact stressed both (1) that traffic patterns can be influenced by events occurring far beyond the geographic boundaries of the line segment being studied and (2) the importance of using a model that is capable of capturing those effects:

The true test of a rail capacity analysis model is its ability to perform complex iterative processes to keep track of the many events occurring on a railroad at each moment in time. The model must be able to dispatch and track the movement of trains, and *to adjust for the ripple effect that individual dispatching decisions will have on other trains using the network.* Railroad traffic patterns can be influenced by many factors, *including events occurring far beyond the geographic boundaries of a line segment under study.* The RTC Model can process complex train movements and incorporate upstream and downstream events and activities. [emphasis added]

By choosing only to present evidence of effects upon the Oriva to Converse line segment from adding 85 million tons of coal to the OTRR, BNSF has deliberately blinded itself to the downstream impacts upon the rest of the OTRR and has denied the Board any evidence of those impacts.

That there will be downstream impacts is an undeniable fact. In addition to BNSF's own prior statements on the subject, Otter Tail's own supplemental evidence proves this to be true for the OTRR. Since the filing of Complainant's Opening Supplemental Evidence on January 9, 2004, Otter Tail has presented a Base and an Alternative case. The principle traffic difference between those cases is that the Alternative case includes 31.7 million more tons of southbound PRB coal traffic than the Base case. In its March 1, 2005 Supplemental Evidence, Otter Tail modeled both cases using the RTC Model. Although this additional coal traffic only traversed the OTRR's southern PRB line segment, it impacted the transit times of general freight trains that travel over the OTRR only between Fargo, ND and Moran Junction, MT, by up to four

hours. If the addition of 31.7 million tons of coal traffic to just the PRB segment of the OTRR has this kind of impact on a line that is several hundred miles away, BNSF's addition of 85 million tons certainly must have a similar, if not greater, impact. This undeniable fact demonstrates without a doubt that BNSF has failed to present a feasible operating plan.

2. BNSF's operating plan ignores cycle times generated by its own RTC Model simulations.

Even on the PRB line segment that BNSF chose to model in its Supplemental Evidence, BNSF selectively ignores the cycle times generated by its own RTC simulation. For example, BNSF substituted its "real world" transit times for loaded and empty coal trains traveling between Gillette, WY and the Buckskin Mine and between Gillette and Donkey Creek, WY. For the Gillette to Buckskin Mine trains, the "real-world" transit times used by BNSF are 41.3% greater than the RTC-generated transit times. The cumulative impact of substituting "real-world" transit times for RTC-generated transit times is to overstate overall cycles times for trains originating at the Buckskin Mine by 6.7% and for trains moving between Gillette and Donkey Creek by 2.5%. BNSF has not presented any justification for these substitutions.

B. BNSF has Updated the OTRR Traffic Group in a Manner that Only Reflects Reductions in Traffic.

BNSF has updated several pieces of evidence, that previously were based on projections, with actual historical data, which Otter Tail has accepted. However, Otter Tail rejects BNSF's attempt to update the OTRR's traffic group by eliminating traffic that BNSF has lost since earlier evidentiary submissions in this case. Although Otter Tail does not dispute the fact that BNSF no longer carries this traffic, BNSF's procedure does not identify any traffic that BNSF has gained during this same time period. It is quite probable that, on net, BNSF actually handles more traffic than it did when the parties initially submitted their evidence. It would be extremely

prejudicial to Otter Tail to only reflect traffic reductions, while ignoring traffic gains, in any attempt to update the traffic data.

Furthermore, Otter Tail is unable to respond to BNSF with complete evidence of any offsetting traffic gains without requiring BNSF to update its discovery responses to Otter Tail. As this proceeding already is over three years old, it is neither practical nor desirable to further delay a decision in order to update discovery responses and to submit what would be a third round of supplemental evidence in this case.

Moreover, it is implicitly understood in every SAC case that the incumbent railroad's "real-world" traffic patterns are likely to change over the course of the 20-year DCF period, but that it is not practical to continually update the SARR's traffic group to reflect those changes. If the net effect of traffic gains and losses ultimately do constitute a significant changed circumstance to the detriment of either party, they are protected procedurally by the opportunity to petition the Board to reopen the proceeding. Cf., Docket No. 41185, Arizona Public Service Company & PacifiCorp v. The Burlington Northern and Santa Fe Ry. Co. (served May 12, 2003) (reopening a rate case to address the closure of a coal mine).

C. BNSF Improperly Includes Total Fuel Costs While Denying the OTRR Total Fuel Revenues.

When the parties initially developed their evidence in this case, BNSF did not impose fuel surcharges on the issue traffic or other traffic in the OTRR's traffic group. In 2004, BNSF began to assess fuel surcharges on the issue traffic. BNSF, however, has excluded the fuel surcharge revenue that it receives from Otter Tail and contends that, if the fuel surcharge revenue received from Otter Tail were included in the SAC analysis, any rate reduction would have to start at the combined level of the tariff rate plus the fuel surcharge. BNSF Supp. Reply at III.A-14. BNSF's argument is a "heads I win, tails you lose" proposition.

BNSF did not impose a fuel surcharge in the 2002 base year for OTRR operations. As BNSF itself has acknowledged, “The fuel surcharge is intended to compensate BNSF for the extraordinary costs that have resulted from the recent spike in fuel costs.” *Id.* BNSF’s SAC analysis accounts for these extraordinary fuel price increases by inflating the OTRR’s 2002 base year operating expenses, which includes the impact of these extraordinary fuel costs, by the actual quarterly change in the RCAF-U, which also includes fuel costs, through 1Q05, and then by a forecast of RCAF-U changes through the remainder of the DCF period. As a consequence, BNSF has included actual fuel cost increases through 1Q05 in its SAC calculations that form the basis for the stand-alone rate. If the percent reduction method is used, it should be applied only to the tariff rate in order to avoid a double recovery of fuel costs in the stand-alone rate.

Since BNSF has inflated the 2002 base year operating costs, including fuel, by the actual RCAF-U through 1Q05 (and a forecast thereafter), if the percent reduction is applied to the tariff rate plus fuel surcharge, BNSF would be compensated twice for the increases in fuel costs – once in the calculation of the stand-alone costs and again in the application of the percent reduction to a fuel inflated rate level. In addition, BNSF cannot impose a fuel surcharge upon the prescribed rate, because its future fuel costs are based, in part, upon a forecast of the change in future fuel costs. Stated differently, future stand-alone rates reflect the forecasted impact of future changes in fuel prices.

D. BNSF’s Application of the PPL Cross-Subsidy Test is Biased and Flawed.

In the December 13th order, the Board directed both parties “to address how we might assure that any rate prescription resulting from the SAC analysis would not reflect an impermissible cross-subsidy.” *Dec. 13th Order* at 3. Specifically, the Board asked “whether including this [southbound coal traffic from the southern PRB] would create an impermissible cross-subsidy of the infrastructure that would be needed north of Converse Junction.” *Id.* The

Board posed this issue in the context of its cross-subsidy analysis in PPL Montana, LLC v. The Burlington Northern and Santa Fe Ry. Co., STB Docket No. 42054 (served Aug. 20, 2002) at 10-13 (“PPL”). Dec. 13th Order at 3.

In response to this directive, both Otter Tail and BNSF applied the PPL cross-subsidy analysis to their evidence, although their methodologies differed in the determination of indirect operating expenses.³ Otter Tail, however, continues to object to the PPL test, because it does not properly reflect the existence of a cross-subsidy and it constitutes an impermissible barrier to entry by imposing a standard on the OTRR that BNSF itself is not required to satisfy. Notwithstanding its objections, Otter Tail has demonstrated that there is no impermissible cross-subsidy even when the PPL test is applied to Otter Tail’s SAC evidence. In contrast, BNSF’s evidence does result in a cross-subsidy, which is not surprising since the OTRR’s total costs also exceed total revenue when using BNSF’s evidence.

BNSF, however, goes beyond the scope of the PPL decision with its proposal to apply the PPL test a second time, after any reduction in rates that might be mandated by the SAC analysis, to determine whether the rate reduction itself creates an impermissible cross-subsidy. If it does, BNSF would limit the percent rate reduction for traffic on the “cross-subsidized” segment to a level that avoids a cross-subsidy. This proposal is inconsistent with CMP because it would create a windfall for the carrier, since aggregate system revenues would continue to exceed aggregate costs; it would fail to maintain existing demand elasticities for the entire SARR traffic group; and it would result in a truly segmented SAC analysis where each line segment must stand on its own, but the incumbent carrier is allowed to retain the residual benefit of excess revenues on some line segments, while the complainant must bear the burden of revenue

³ Otter Tail also demonstrates that the Board’s cross-subsidy test is flawed.

deficiencies on other segments. There simple is no need or justification to apply the PPL test after application of the percent reduction methodology.

Respectfully submitted,



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Dated: April 4, 2005

III-A

TRAFFIC GROUP

III-A. TRAFFIC GROUP

Otter Tail's calculation of the maximum lawful rate under the Stand-Alone Cost ("SAC") constraint of the Surface Transportation Board's ("STB" or "Board") Coal Rate Guidelines-Nationwide ("Guidelines") is based upon a hypothetical rail carrier, named the Otter Tail Railroad ("OTRR"). Otter Tail presented its determination of maximum lawful rates on June 13, 2003 in its Opening Evidence; on January 9, 2004 in its Supplemental Opening Evidence; on April 29, 2004 in its Rebuttal Evidence; and on March 1, 2005 in its Supplemental Evidence.¹

In its March 1, 2005 Supplemental filing in compliance with the STB's December 13, 2004 and February 18, 2005 decisions, Otter Tail presented two scenarios: (1) a Rebuttal Base Case using the RTC model and excluding the rerouted non-coal traffic ("RTC Base Case – Exclusions"); and (2) a Rebuttal Alternative Case using the RTC model and excluding the rerouted non-coal traffic ("RTC Alternative Case – Exclusions").²

In its March 1, 2005 Supplemental filing, BNSF responded to the STB's directive by modifying its March 22, 2004 Supplemental Reply (which excluded the rerouted non-coal traffic) to reflect the inclusion of 84.5 million tons of southbound coal to the Powder River Basin ("PRB") section of the OTRR.³

1. Traffic and Revenues

Otter Tail's March 1, 2005 Supplemental evidence showed the effect of removing 13.7 million tons of rerouted non-coal traffic on the OTRR from both the Rebuttal Base Case and the Rebuttal

¹ Modified by Otter Tail's March 14, 2005 Supplemental Errata.

² As explained in Otter Tail's previous filings, the Base Case reflects BNSF's actual market-based divisions for cross-over traffic and the Alternative Case relies on the STB's Modified Straight-Mileage Prorate ("MSP") methodology to calculate revenues for the OTRR. The Alternative Case includes 31.7 million more coal tons than the Base Case.

³ This traffic interchanges with the residual BNSF at Converse Yard, WY.

Alternative Case. Table III-A-11⁴ below, compares the 2002 base year traffic tons and revenues, for both the RTC Base Case - Exclusions and the RTC Alternative Case - Exclusions⁵, to what BNSF filed in its March 1, 2005 Supplemental evidence.

Table III-A-11 <u>OTRR Base Year 2002 Tons and Revenues</u>		
<u>Scenario</u>	<u>Tons</u> (millions)	<u>Revenues</u> (millions)
(1)	(2)	(3)
<u>Otter Tail</u>		
1. RTC Base Case - Exclusions	187.8	\$735.4
2. RTC Alternative Case - Exclusions	219.6	\$583.0
<u>BNSF</u>		
3. Supplemental	219.6	\$474.9

a. **Traffic**

i. **Base Year**

As shown in Table III-A-11 above, BNSF's Supplemental filing includes the same base year tonnage as Otter Tail's Alternative Case.

⁴ Tables III-A-1 to III-A-9 are included in Otter Tail's April 29, 2004 Rebuttal Narrative and Table III-A-10 was included in Otter Tail's March 1, 2005 Supplemental Narrative.

⁵ The details supporting the OTRR traffic and revenues for the two supplemental scenarios were included in Otter Tail's March 14, 2005 Supplemental Errata electronic workpapers as follows: 1) RTC Base Case - Exclusions files contained in the III-A folder in the "OTP Reb XGF" directory; and 2) RTC Alternative Case - Exclusions files contained in the III-A folder under the "Alternative" folder in the "OTP REB XGF" directory. The details supporting the OTRR traffic and revenues for the two supplemental scenarios as revised in this Reply are included in Otter Tail's April 4, 2005 Supplemental Reply electronic workpapers as follows: 1) RTC Base Case - Exclusions files contained in the III-A folder in the "OTP Reb XGF" directory; and 2) RTC Alternative Case - Exclusions files contained in the III-A folder under the "Alternative" folder in the "OTP REB XGF" directory.

ii. Projected

There are five differences between Otter Tail and BNSF with regard to projected tonnage for the OTRR. Each of these differences is discussed below.

(a) EIA Forecast

In prior filings, both Otter Tail and BNSF relied on the 2003 EIA forecast to adjust the tonnage volume of the OTRR. In keeping with the STB's preference to utilize the most current data available, Otter Tail has incorporated the 2005 EIA forecast into its Supplemental Reply filing.

(b) Riverside and Highbridge

In its Reply filing, BNSF reduced the volumes to these facilities beginning in 2005 and completely eliminated them for the 2007-2021 time period based on speculation that the fuel source for these facilities will be converted from PRB coal to natural gas. BNSF maintained this position in its Supplemental filing. Otter Tail disagrees with BNSF and addressed this issue on Rebuttal at III-A-32 and III-A-33. Otter Tail continues to include coal volumes to these facilities through 2021 in the traffic base of the OTRR.

(c) Superior Dock

In its Reply filing, BNSF reduced the coal volumes moving to Superior Dock, claiming that Otter Tail had overstated its capacity. BNSF maintained this position in its Supplemental filing. Otter Tail disagrees with BNSF and addressed this issue on Rebuttal at III-A-33 through III-A-36. Otter Tail continues to rely on its Opening evidence maximum tonnage volume for Superior Dock.

(d) Otter Tail

Prior to BNSF's March 1, 2005 filing, Otter Tail and BNSF had agreed on the annual tonnage volumes moving to Otter Tail's Big Stone plant each year based on BNSF's 2003 forecast and

application of the 2003 EIA forecast. In its Supplemental filing, BNSF deviated from this by substituting actual shipments for 2003 and 2004 and applying the 2003 EIA forecast to develop future volumes.

Otter Tail has reviewed BNSF's calculations and accepted BNSF's 2003 volume of tons.⁶ However, BNSF's calculation of tons for 2004⁷ is incorrect for two reasons. First, BNSF double-counted tons for train by including both the original freight bill and the revised freight bill. Second, BNSF failed to include the tons for trains and

.⁸ Making these corrections to BNSF's 2004 waybill summary increases the 2004 tons to .⁹ This also impacts tons for 2005. Applying the 2005 EIA forecast to the corrected 2004 tons results in tons for 2005, the cap for OTRR coal shipments to Otter Tail's Big Stone plant.¹⁰ These changed volumes have been incorporated into Otter Tail's stand-alone calculations accompanying this Supplemental Reply filing.

(e) Omaha Public Power District

In BNSF's Reply, BNSF excluded all of the tonnage destined for Omaha Public Power District's ("OPPD") North Omaha and Nebraska City power stations, with the exception of approximately tons in 2002, because OPPD's tonnage originated south of Cordero and moved through Converse Yard. In its March 1, 2005 Supplemental filing, BNSF accepted Otter Tail's 2002 and 2003 volumes but excluded all OPPD tonnage from 2004 through 2021. BNSF maintains that since

⁶ This is a reduction from the tons used by the parties in prior filings in this proceeding.

⁷ Both parties had previously used tons for 2004.

⁸ The waybills for the double-counted train and the excluded trains are included in Otter Tail's supporting electronic workpapers in file "OTP 2004 Tonnage Correction Waybills.PDF".

⁹ See Otter Tail electronic workpaper "2004 OTP Freight Bills Corrected.xls".

¹⁰ In BNSF's and Otter Tail's filings prior to March 1, 2005, both parties included tons in 2005. In BNSF's March 1, 2005 Supplemental filing, BNSF included tons.

it lost this business to the Union Pacific Railroad (“UP”) for the 2004-2008 time period, the OTRR would lose it entirely after 2003. BNSF’s position is improper.

When Otter Tail filed its Opening Evidence on June 13, 2003, BNSF was still handling OPPD’s coal movements and, in fact, BNSF included OPPD in its 2004 coal forecast provided in April 2003 in response to Otter Tail’s discovery requests.¹¹ BNSF’s position with regard to adjustments to the OTRR’s traffic base is one-sided, and does not paint the complete picture. With its adjustment to the OPPD traffic, as well as its adjustments to the Riverside, Highbridge and Superior Dock traffic, BNSF is focused solely on reductions to the OTRR’s traffic base. BNSF would have the STB believe that it is only losing traffic as BNSF makes no mention of traffic that it has gained which more than offsets the loss of a movement such as OPPD. Specifically, BNSF recently signed a contract with Georgia Power Company (“Georgia Power”) and, beginning in 2004, is moving approximately 12-14 million tons per year of PRB coal destined to Georgia Power’s Plant Scherer.¹² This movement is not handled by the OTRR but would more than replace the OPPD movement. Clearly, the OTRR’s traffic base could continually be modified to reflect changes that have occurred since Otter Tail’s Opening evidence was filed but Otter Tail, as the complainant, is allowed to identify the traffic base and must do so based on existing situations at the time of selection. Furthermore, allowing constant changes to the traffic base would be unfair to both parties, as each would seek to modify the traffic base to its benefit. This would prolong the proceeding, not to mention requiring constant adjustments to the evidence, and must not be allowed to transpire. As

¹¹ See Otter Tail Supplemental Reply electronic workpaper “BNSF 2004 Forecast OPPD.pdf”.

¹² See Otter Tail Supplemental Reply electronic workpaper “Scherer Tonnage.pdf”.

OPPD was a BNSF customer when Otter Tail developed its traffic base, OPPD should remain a customer throughout the life of the OTRR.

b. Revenues

i. Base Year Revenues

In its Reply, BNSF calculated base year 2002 revenues for the OTRR using three different methodologies - (1) BNSF's Density Adjusted Revenue Allocation ("DARA") methodology; (2) the STB's MSP methodology; and (3) BNSF's adjusted MSP methodology. In its March 1, 2005 Supplemental filing, BNSF presented these same three base year revenue calculations, using the same methodologies, based on its revised OTRR traffic base. Otter Tail developed its calculation of the OTRR's base year revenues using BNSF's actual divisions in its Base Case presentation and the STB's MSP methodology in its Alternative Case presentation. Otter Tail addressed DARA and BNSF's adjusted MSP methodologies on Rebuttal at pages III-A-65 through III-A-92.¹³

ii. Projected Revenues

In its previous Reply and Supplemental Reply filings, BNSF developed projected revenues for the OTRR for 2003 through 2021 using only DARA. BNSF continued this practice in its March 1, 2005 Supplemental filing. Otter Tail continued to calculate the OTRR's revenues using actual BNSF divisions in its Base Case and the STB MSP methodology in its Alternative Case. The additional revenue issues raised by BNSF in its March 1, 2005 Supplemental filing are addressed below.

¹³ Otter Tail notes that BNSF's DARA methodology has been rejected in all prior cases in which it has been presented. See Duke/NS at 20-22; Duke/CSX at 21; CP&L at 20-21; and Xcel at 17-19.

(a) Otter Tail

Prior to BNSF's March 1, 2005 filing, Otter Tail and BNSF had agreed on the rates applicable to the annual tonnage volumes moving to Otter Tail's Big Stone plant each year based on BNSF's 2003 forecast provided in discovery and the application of a portion of the annual change in the RCAF-U for future years. In its Supplemental filing, BNSF deviated from this by substituting actual tariff rates for 2003 through 2005 and then applying the RCAF-U adjustment (based on its new RCAF forecast discussed *infra*) to develop future rates for 2006 through 2021. Otter Tail has accepted the use of the actual tariff rates for 2003 through 2005 (but not BNSF's new RCAF forecast) and modified its stand-alone calculations accordingly.

(b) Fuel Surcharge

At pages III.A-14 to III.A-15 of its Supplemental evidence, BNSF states that it has updated the issue traffic revenue by substituting actual revenues received by BNSF on historic movements in place of projected revenues. BNSF also states that it did not include amounts received from Otter Tail under the fuel surcharge collected from the issue traffic.¹⁴ BNSF contends that fuel surcharges should not be included for three reasons. First, the fuel surcharge is not the subject of this proceeding. Second, the proper treatment of fuel surcharges in a SAC analysis has not previously been addressed by the Board. Third, the Board has strictly limited the scope of this Supplemental evidence and did not include a determination of the impact of fuel surcharge revenues in the that scope of evidence. In addition, BNSF concluded that the fuel surcharge is most likely irrelevant to this proceeding, as it believes that the Board will find that the rates do not exceed a maximum

¹⁴ BNSF did not indicate if it included fuel surcharge revenues from other OTRR customers. However, a review of BNSF's Supplemental evidence traffic and revenue files reveals that no fuel surcharge revenues are included.

reasonable level. Finally, BNSF states that even if fuel surcharges were included in the revenues produced by the challenged rate, any rate reduction that resulted from the Board's SAC analysis would have to use as the starting point for the issue traffic revenues including the fuel surcharge.

BNSF's reasons for excluding the fuel surcharges are not valid given that BNSF has chosen to increase the SAC operating expenses based on the actual RCAF-U for each quarter through 1Q05 and forecasted into the future. BNSF's coal fuel surcharge, which is applied to the entire rate level, is 10.0 percent for April 2005 and will jump to 12.5 percent for May 2005.¹⁵ While BNSF has increased the fuel portion of stand-alone costs to move the over 200 million tons of traffic handled by the OTRR from each year, it has not increased its calculation of stand-alone revenues (approximately \$500 million per year) to reflect any fuel surcharges that it receives, i.e. BNSF has included the increase in fuel costs but has not included the increase in revenues associated with the fuel cost increase.

Using the actual RCAF-U increases the fuel costs of the OTRR based on what BNSF characterizes as the "extraordinary costs that have resulted from the recent spike in fuel costs."¹⁶ See BNSF Supplemental evidence at III.A-14. This can be demonstrated by examining the change in the fuel portion of the RCAF-U from 1Q04 to 2Q05. During this period, the fuel portion of the RCAF-U has increased from 110.8 to 186.9, an increase of 68.7 percent. The impact of this increase is readily apparent from the increase in the overall RCAF-U for the same period. From 1Q04 to 2Q05 the overall RCAF-U has increased from 1.025 to 1.149, an increase of 12.1 percent. If the actual RCAF-U and its associated change in fuel costs are included in calculating the OTRR operating costs, then

¹⁵ See Otter Tail Supplemental Reply electronic workpaper "BNSF Coal Fuel Surcharge.pdf".

¹⁶ See BNSF March 1, 2005 Supplemental Narrative at III.A-14.

the prescribed stand-alone rate (costs) includes the impact of increased fuel costs and no fuel surcharge is warranted.

BNSF's claim that, if fuel surcharges were included in the revenues produced by the challenged rate, any rate reduction that resulted from the Board's SAC analysis would have to use as the starting point the issue traffic revenues including the fuel surcharge, is not correct. The tariff rate is at issue in this proceeding and the tariff rate is evaluated on a stand-alone cost basis. Stated differently, the costs incurred by the stand-alone railroad (including increased fuel costs) forms the basis for the maximum rate. As the stand-alone costs, and therefore the stand-alone rate, reflect actual historic fuel costs and projected future fuel costs no fuel surcharge would be warranted. The prescribed rate(s) are set at a level that includes BNSF's current fuel costs at the current existing extraordinary levels, as well as a projection of future changes in BNSF's fuel costs.

(c) Indices

In its March 1, 2005 Supplemental filing, BNSF made two modification of its indices used to forecast the rates for the traffic of the OTRR. First, BNSF substituted actual 2003 and 2004 RCAF-U and RCAF-A indexes for the forecasted indices used in its prior filings in this proceeding. Second, BNSF relied on a new RCAF forecast it purchased from DRI-WEFA. As discussed in greater detail in Section III-G, *infra*, Otter Tail has accepted the use of actual RCAF indices for 2003 and 2004 but Otter Tail has not accepted BNSF's new DRI-WEFA forecast.

Specifically, Otter Tail accepts the updating of the RCAF indices, and includes the actual RCAF indices up through 2Q05 in its Supplemental Reply stand-alone calculations, because the RCAF indices are publicly available and the STB has, in recent decisions, incorporated the most current published indices available. However, Otter Tail does not accept BNSF's new DRI-WEFA forecast

as it constitutes impermissible new evidence. The DRI-WEFA forecast is not publicly available and can only be obtained through purchase. Furthermore, it goes beyond the scope of the STB's December 13, 2004 decision requesting supplemental evidence, as the STB directed the parties to determine the impact on their respective stand-alone calculations by making certain changes to the stand-alone traffic base. Arguably, the changes made by BNSF to the volumes and rates of the issue traffic also fall outside of the scope of the STB's directive, but Otter Tail has accepted those changes as they reflect actual historical data. The new DRI-WEFA forecast used by BNSF does not constitute changes to actual historical data and therefore must be rejected as new evidence outside the scope of the STB's request.

(d) Other

In its Reply, BNSF took issue with three components of Otter Tail's methodology for projecting revenues - (1) designation of shippers as captive or competitive; (2) new rates upon expiration of contracts; and (3) escalation of new rates upon expiration of contracts. In its March 1, 2005 Supplemental filing, BNSF maintained its Reply position regarding these issues. Otter Tail addressed these issues at pages III-A-93 through III-A-107 of its Rebuttal and Otter Tail's comments are still relevant.

2. PPL Cross-Subsidy Analysis

As stated in Otter Tail's Supplemental evidence, the STB directed both parties to address how the Board can assure that any rate prescription resulting from the SAC analysis would not reflect an impermissible cross-subsidy as defined by the STB in PPL.

In response to this directive, Otter Tail showed in its Supplemental evidence that both the RTC Base Case – Exclusions and the RTC Alternative Case – Exclusions pass the cross-subsidy test as

applied by the Board in PPL. Otter Tail also demonstrated why the Board's methodology in PPL does not properly reflect a cross-subsidy.

BNSF, in response to the Board's directive, makes five arguments regarding the PPL test. First, BNSF argues that the OTRR looks like the stand-alone railroad ("SARR") that the Board rejected in PPL, and concludes that, if the OTRR looks like PPL and walks like PPL, it must be PPL. BNSF's argument is not particularly instructive and certainly does not demonstrate the existence of a cross-subsidy. Moreover, there are several differences between the SARR presented in PPL and the OTRR that BNSF ignores. For example, the OTRR moves 7.4 million tons of general freight traffic over the lines west of Campbell and an additional 13.7 million tons of general freight traffic if the Board accepts the inclusion of the rerouted non-coal traffic. The SARR in PPL carries no general freight traffic.

In addition, the OTRR moves million tons of coal traffic, in the 2002 base year, over the lines west of Campbell that BNSF routes via Alliance, Nebraska, Sioux City, Iowa and Minneapolis, Minnesota. This rerouted traffic includes a portion of the coal volumes that BNSF moves from the PRB to the Midwest Energy docks at Superior, Wisconsin. BNSF currently moves a portion of this traffic through Alliance, Sioux City and Minneapolis to Superior, and a portion of this traffic in the same manner as it is routed by Otter Tail, i.e., through Campbell, Moran Junction and Fargo where it is interchanged to BNSF. Otter Tail moves the entirety of the traffic over the OTRR from the mines through Campbell, Moran Junction and Fargo to interchange to BNSF. In addition, Otter Tail rerouted coal destined to Northern States Power's Riverside and High Bridge plants. BNSF currently routes this traffic through Alliance, Sioux City and Minneapolis, whereas Otter Tail routes the traffic through Campbell, Moran Junction and Fargo to Benson where it is interchanged to BNSF.

In its Reply, BNSF identifies and accepts the rerouting of both the Midwest Energy and Northern States Power coal traffic. The SARR in PPL did not include the general freight traffic and it did not reroute the Midwest Energy or Northern States Power traffic over the lines west of Campbell and therefore the OTRR is not the SARR that the Board found to contain an impermissible cross-subsidy in PPL.

Second, BNSF argues that the OTRR must pass the cross-subsidy test used by the Board in PPL. To support this position, BNSF presents a PPL cross-subsidy test showing that the OTRR does not pass the PPL cross-subsidy test for the Campbell West segment of the OTRR. BNSF's cross-subsidy test is totally meaningless, because using BNSF's costs and revenues, the entire OTRR is revenue-deficient. As stated above, Otter Tail demonstrated that the OTRR passes the cross-subsidy test using the Board's methodology from PPL for both the Campbell West and Glendive East segments of the OTRR.

Third, BNSF argues that the Board's cross-subsidy test as promulgated in PPL properly reflects the existence of a cross-subsidy. As discussed in its Supplemental evidence, Otter Tail does not believe that the cross-subsidy test used by the Board in PPL properly reflects the existence of a cross-subsidy. When a railroad (or any company) evaluates whether or not to handle new traffic (or a new line of business), it compares the revenues that will be generated by the new traffic to the economic costs (i.e., attributable, avoidable, variable, incremental or marginal costs) of handling the new traffic. As long as the revenues from the new traffic are greater than the economic costs of handling the new traffic, the railroad (or any company) is better off with the new traffic. This same theoretical

approach is used to evaluate whether or not a railroad should continue to handle existing or theoretical traffic movements.¹⁷

To properly determine the economic costs associated with handling new traffic, one must consider the capital costs associated with the new traffic and the variable operating expenses associated with handling this new traffic. The Board's PPL methodology erroneously considers both the fixed and variable portions of the operating costs associated with the new traffic, rather than only the long-run variable portion of these costs.

It is well recognized that operating costs contain both variable and fixed components and that the fixed components cannot be directly attributable to individual movements. The long-run variable operating costs can be estimated by applying the Uniform Rail Costing System ("URCS") regression coefficients to the total traffic on the SARR system for each of the expense categories of operating cost and, in doing so, determine the portion of the SARR operating costs that are long-run variable operating costs. It is only the long-run variable portion of operating cost that are appropriately included in the cross-subsidy analysis.

As explained in Otter Tail's Supplemental evidence, use of long-run variable costs is consistent with Ex Parte 347 (Sub No. 2), Coal Rate Guidelines, Nationwide, where the Interstate Commerce Commission ("ICC") states, "The long-run marginal cost (LRMC) is the economic measure of long-term attributable cost of each service." 1 I.C.C. 2d at 536. The ICC then defines LRMC as:

¹⁷ This is also consistent with Ex Parte 347 (Sub No. 2) where the STB stated, "As a general rule, it is better for a railroad to carry any traffic that covers its own attributable costs and makes any contribution (no matter how slight) to the joint and common costs." 1 S.T.B. 1004 (1996).

The marginal cost of a service is the additional cost that would be incurred in supplying an additional unit, or the saving in total cost that would be made possible by supplying one less unit. As such, the marginal cost of a rail service is the per-unit opportunity cost to the rail carrier of the service. Here the term “opportunity cost” refers to the value a resource can contribute if it is used in some alternative occupation instead of the one to which it is currently assigned by the railroad. Thus, marginal cost is similar in meaning to a unit incremental cost and to the true economic variable cost.

I.C.C. 2d at 537, note 43.

In contrast to this definition of LRMC (and thereby long-term attributable cost), the Board’s PPL methodology incorrectly includes the fixed portion of the operating costs that cannot be directly allocated to a unit or units of traffic. BNSF’s argument that URCS variable costs are not appropriate are inconsistent with the ICC’s findings in Coal Rate Guidelines.

Fourth, BNSF argues that the use of URCS regression coefficients to determine the variable portion of operating costs is inappropriate for determining the existence of a cross-subsidy for a SARR because the coefficients underlying the URCS variabilities reflect the characteristics of Class I railroads and it has not been established that these coefficients are relevant to the smaller and simpler OTRR. See BNSF Supplemental evidence, at III.A-33, note 41. BNSF position directly contradicts its Reply evidence, where it argued that the OTRR is not a small simple railroad, but instead the equivalent of a Class I railroad that would incur similar costs as a Class I railroad. For example BNSF states “OTRR as envisioned by Otter Tail will be a multi-commodity, Class I railroad of substantial scope.” See BNSF Reply at III.D-54. Further, BNSF states, “Otter Tail’s hypothetical OTRR substantially exceeds the STB threshold for Class I status.” See BNSF Reply at III.D-57.

Finally, BNSF argues that, if the OTRR passes the PPL test, any revenue reduction should be limited to the percent reduction available under the PPL test segment because to do otherwise would create an impermissible cross-subsidy. BNSF's proposal to limit the percent reduction to the amount available under the PPL test is untenable for three reasons. First this limitation of the percent reduction creates a windfall for the carrier as its aggregate system revenues would continue to exceed its aggregate cost after the revenues are reduced by the PPL reduction.

Second, assuming the remaining over-recovery is eliminated by further reducing the revenues to the non-PPL segment creates another problem in that the traffic moving over the PPL segment receives a lower rate reduction than traffic that moves exclusively over the non-PPL segment. As a result, this two step rate reduction fails to maintain the existing demand elasticities.

Finally, BNSF's proposal changes the fundamental underpinnings of the stand-alone cost test. BNSF's step-approach suggests that a different stand-alone answer needs to be calculated for each line segment (and the traffic that flows over it) on the stand-alone railroad, and that all the residual benefits accrue to BNSF.

III-B

STAND-ALONE RAILROAD

III-B. STAND-ALONE RAILROAD SYSTEM

In its March 1, 2005 Supplemental filing, modified by the March 14, 2005 Errata, Otter Tail presented its evidence for the two previously-described presentations: (1) RTC Base Case - Exclusions; and (2) RTC Alternative Case - Exclusions. In its March 1, 2005 Supplemental filing, BNSF presented its evidence based on excluding the rerouted non-coal traffic and including the southern PRB traffic. The differences between Otter Tail's and BNSF's respective OTRR systems are discussed below.

1. Route and Mileage

For the RTC Base Case - Exclusions and RTC Alternative Case - Exclusions, Otter Tail's OTRR's configuration resulted in 1,207.68 route miles. BNSF's version of the OTRR consists of 1,210.16 route miles, a difference of 2.48 route miles. This difference is due to factors identified and explained in Otter Tail's Rebuttal evidence and new factors revised in BNSF's Supplemental filing.

At pages III-B-6 and III-B-7 of its Rebuttal, Otter Tail listed 14 separate mileage differences demonstrating that BNSF's Reply route miles (including the Snowden Branch) were overstated by 2.00 miles - 1.14 route miles that BNSF improperly omitted and 3.14 route miles that BNSF improperly included. In its March 2004 Supplemental Reply filing, excluding the rerouted non-coal traffic, BNSF eliminated a 0.46-mile wye track at Snowden, MT reducing this difference to 1.54 miles - 1.14 route miles that BNSF improperly omitted and 2.68 route miles that BNSF improperly included.

In its March 1, 2005 Supplemental filing, BNSF added route miles at six locations. First, BNSF added 0.70 miles of track on the Reno Branch and 0.06 miles for the southbound mine spur at N. Antelope that it had previously omitted and which Otter Tail had included in its Rebuttal. As this

decreases the 1.14 miles BNSF improperly left out to 0.38 miles, this change increases the net route mileage difference by 0.76 miles, to 2.30 miles. Second, BNSF added 2.48 miles for a second southbound connection at N. Antelope which was included in Otter Tail's Supplemental RTC Model and included in its Supplemental Errata filing. Third, BNSF added 0.06 miles for southbound mine spurs at each of three locations - Cordero, N. Rochelle and Antelope. As explained below, Otter Tail does not agree with the addition of the 0.18 route miles for these mines, making the total difference 2.48 route miles.¹

The BNSF mine schematics and track charts provided in discovery and included by BNSF in its Supplemental workpapers do not support the inclusion of 0.06 miles at any of the three mines. None of the schematics identify conclusively that BNSF owns this trackage and none of the schematics specify any length of BNSF ownership. On Rebuttal, Otter Tail included all of the BNSF-owned trackage at each of the mines as supported by Otter Tail's Rebuttal workpapers and Otter Tail continues to include the correct amount of railroad-owned trackage at each mine in its Supplemental filing.

2. Track Miles

In its Supplemental filing, Otter Tail used the same facility plan for both the RTC Base Case- Exclusions and the RTC Alternative Case- Exclusions. Otter Tail included Exhibit III-B-3 in its Supplemental electronic workpapers which identified added track in green and deleted track in

¹ See Otter Tail's Supplemental Reply electronic workpaper "Supplemental Filing Route Mile Differences.pdf".

orange.² Table III-B-8 below³ compares the main track miles for Otter Tail's supplemental cases to the main track miles filed in BNSF's March 1, 2005 Supplemental filing.

Table III-B-8 <u>Comparison of OTRR Main Track Miles (Excluding Trackage Rights)</u>			
<u>Item</u> (1)	<u>Otter Tail RTC Base & RTC Alternative Case - Exclusions</u> (2)	<u>BNSF March 1, 2005 Supplemental</u> (3)	<u>BNSF Over / (Under) Otter Tail</u> (4)
1. Single track miles	1,207.68	1,210.16	2.48
2. Double track/passing siding miles	<u>277.32</u>	<u>200.84</u>	<u>(76.48)</u>
3. Total main track miles	1,486.00	1,411.00	(74.00)

The difference in single track miles (route miles) was discussed in the previous section. The difference in double track/passing siding miles is caused by Otter Tail modeling the entire OTRR in the RTC Model. Contrary to BNSF's unsupported assertion, changes in traffic levels on any portion of the OTRR impacts traffic flows over the entire OTRR, not unlike a ripple effect. In order for the traffic to flow over the entire OTRR, Otter Tail had to include several sections of double track/passing sidings that BNSF did not include. As Otter Tail modeled the entire OTRR, its facility plan reflects the double track/passing siding miles actually needed for the OTRR to operate.

² See Supplemental electronic workpaper "otrr diagrams Rebuttal XGF.vsd" contained in the III-B folder in the "OTP Reb XGF" directory. The trackage shown in green indicates trackage that was added to the OTRR's Rebuttal facility plan in order for the RTC Model to run. The trackage shown in orange indicates trackage that was included in the OTRR's Rebuttal facility plan but was not needed for the RTC Model to run.

³ Tables III-B-1 through III-B-3 were included in Otter Tail's June 13, 2003 Opening Narrative; Tables III-B-4 through III-B-5 were included in Otter Tail's April 29, 2004 Rebuttal Narrative; and Tables III-B-6 through III_B-7 were included in Otter Tail's March 14, 2005 Supplemental Errata Narrative.

Otter Tail notes that BNSF added a siding on the north end of the Campbell Branch from Milepost (“MP”) 7.60 to MP 9.36 in its March 1, 2005 Supplemental filing due to the inclusion of additional trains exiting the OTRR at Donkey Creek that BNSF claims were inadvertently omitted from its March 22, 2004 Supplemental Reply RTC Model analysis. Otter Tail disputes the need for this siding.

Both BNSF and Otter Tail included a two-track yard at the south end of the Campbell Branch (between MP 0.5 and MP 3.7) for crew changes and to hold trains when necessary. In Otter Tail’s RTC Model analysis, the RTC Model utilizes this yard and there is no need for any additional sidings. In BNSF’s RTC Model analysis, however, the RTC Model did not use the Campbell Yard,⁴ apparently necessitating the need to add a siding further north on the Campbell Branch. If BNSF’s RTC Model had properly used the existing Campbell Yard, the additional siding would not be (and is not) required.

3. Yard and Other Track Miles

As noted by Otter Tail in its Supplemental filing, there were reductions to the yard track miles for the RTC Base Case - Exclusions and RTC Alternative Case - Exclusions. Specifically, the Snowden Yard was eliminated, the number of tracks in the Glendive Yard and Fargo Yard were reduced because of the fewer number of trains, and the yard tracks used for I&I switching in Fargo Yard were eliminated because the traffic requiring the I&I switching is not handled by the OTRR under these scenarios. The reduction in double track/passing siding miles resulted in a decrease in

⁴ One feature of the RTC Model is the ability to determine whether or not a specific track segment is used during a run. Otter Tail reviewed the RTC Model run submitted by BNSF and found that the Campbell Yard tracks were not used in BNSF’s RTC Model run. This can be observed by running the “History” file from BNSF’s RTC simulation “OTRR-Supp-1-05-Scenario-C,” and selecting the “Train Traversal” option from “Link Cosmetics” menu.

the set-out track miles to reflect locations where four set-out tracks (in double track locations) were replaced by two set-out tracks (in single track locations).

Table III-B-9 below compares the yard and other (set-out) track miles included by Otter Tail and BNSF in their respective Supplemental filings.

<u>Item</u> (1)	<u>Otter Tail RTC Base & RTC Alternative Case - Exclusions</u> (2)	<u>BNSF March 1, 2005 Supplemental</u> (3)	<u>BNSF Over / (Under) Otter Tail</u> (4)
1. Yard track miles	66.72	91.22	24.50
2. Other (set-out) track miles	<u>11.14</u>	<u>20.57</u>	<u>9.43</u>
3. Total yard and other track miles	77.86	111.79	33.93

BNSF did not make any changes to its set-out track miles that were contained in its March 22, 2004 Supplemental Reply filing (excluding the Snowden Branch). As discussed at pages III-B-19 through III-B-20 of Otter Tail's Rebuttal, BNSF overstated the amount of set-out track required by the OTRR through its excessive, and unnecessary, length specifications.

At pages III-B-11 through III-B-19 of its Rebuttal, Otter Tail addressed the differences between Otter Tail and BNSF with respect to yard sizes. In its Supplemental filing, BNSF increased the amount of yard trackage at Donkey Creek and Converse. Specifically, BNSF added 3.43 miles of track to the Donkey Creek Yard and 27.31 miles of track to the Converse Yard.

In BNSF's October 8, 2003 Reply filing, it accepted Otter Tail's basic configuration for the Donkey Creek Yard except for the locomotive shop and servicing facilities and the car repair facilities.⁵ Stated differently, BNSF agreed with Otter Tail that the Donkey Creek Yard had sufficient yard tracks to handle the traffic moving through the yard. BNSF made virtually no change to the Donkey Creek Yard in its March 22, 2004 Supplemental Reply filing which excluded the rerouted non-coal traffic.⁶ However, in its March 1, 2005 Supplemental filing, seventeen (17) months later, BNSF "discovers" missing trains and suddenly Donkey Creek Yard expands by two train-length yard tracks totaling 3.43 miles. BNSF's additional track is unnecessary as it had already accepted Otter Tail's yard configuration with regard to relay tracks for handling trains moving through the yard. Furthermore, there is no additional traffic moving through Donkey Creek Yard as the traffic that BNSF added to its OTRR pursuant to the STB's December 13, 2004 order exits the OTRR through Converse Yard. Finally, Otter Tail's RTC runs did not indicate a need for additional track in the Donkey Creek Yard. BNSF's additional trackage is unnecessary and should be rejected.

BNSF's addition of 27.31 miles of track for its re-designed Converse Yard is also a gross overstatement. On Opening, Otter Tail included 8.11 miles of yard track⁷ for Converse Yard and also constructed 4.3 miles of triple main track from MP 65.5 to MP 69.8.⁸ As stated on Opening, at pages III-B-10 and III-B-11, loaded southbound trains would generally stay on the main line tracks to effect the run-through interchange with BNSF and the yard tracks would be utilized for the empty

⁵ See BNSF Reply at III.B-35.

⁶ BNSF eliminated one 1,220-foot yard track.

⁷ Comprised of five sidings ranging in length from 8,800 to 8,000 feet to accommodate five empty trains in the yard at one time.

⁸ This length of triple track is sufficient to accommodate three trains on each track.

trains received from BNSF. Otter Tail has used this same configuration for the Converse Yard in each of its filings in this proceedings.⁹

In its March 1, 2005 Supplemental filing, BNSF included a radically redesigned Converse Yard. BNSF increased the 0.38 miles of yard track included in its March 2004 Supplemental Reply by 27.31 miles for a total of 27.69 miles. BNSF did not submit a stick diagram of its version of the Converse Yard but described it in the text of its filing. At page III.B-11, BNSF states that Converse Yard "...should be configured with the number of yard tracks proposed by Otter Tail in its opening evidence and one additional 8,000-foot long inspection/interchange track, a locomotive service facility, a car repair facility (including bad-order car tracks), and spare car storage tracks." The addition of one 8,000-foot track to Otter Tail's Opening yard configuration increases the 8.11 miles included by Otter Tail to 9.63 miles. A review of the Converse Yard layout included in BNSF's RTC Model indicates that BNSF also constructed the 4.3 miles of triple track but, as BNSF did not include it as main line track, it was included in the 27.69 miles of yard track. This means the remaining difference of 13.75 miles is caused by BNSF's inclusion of a locomotive servicing and fueling facility, a car repair facility (including bad-order car tracks) and car storage tracks. BNSF's justification for including all these facilities is that Converse Yard handles more trains than Donkey Creek Yard and, therefore, must be sized accordingly. As discussed below, none of the facilities BNSF added to Converse Yard are needed and neither are the 13.75 miles of yard track.

There is no need for a locomotive fueling and servicing facility at Converse Yard. Otter Tail addressed the issue of fueling facilities at Converse Yard in Rebuttal, at page III-F-168, stating that

⁹ Compare Otter Tail's Opening Exhibit III-B-1 to Exhibit III-B-3 included with Otter Tail's March 1, 2005 Supplemental filing electronic workpapers in file "ottr diagrams Rebuttal XGF.vsd".

any necessary fueling will be done by truck similar to fueling a car at a gas station. The empty trains received from BNSF at Converse will have been fueled and serviced by BNSF in its Guernsey Yard only 102 miles from Converse. These trains are on the OTRR for only a short distance, no more than 70 miles round trip¹⁰, before they return to Converse Yard as loaded trains and are interchanged back to BNSF. Any trains that may require fuel will be topped off using fuel trucks.¹¹

There is no need for a car repair facility or spare car storage tracks at Converse either. First, the OTRR is not required to construct a car repair facility at Converse Yard. On Rebuttal, Otter Tail addressed this same issue with respect to Donkey Creek Yard¹² and it applies equally to Converse Yard. The full service lease provided by BNSF in discovery and used by Otter Tail to develop car costs includes the costs for maintaining the cars and the lessor is responsible for arranging and paying for the maintenance. Otter Tail also identified three independent car repair facilities located near or on the OTRR that could provide railcar repair service when necessary. One of those facilities is located at Bill, WY, within 20 miles of Converse Yard. Therefore, there is no requirement for the OTRR to construct a car repair facility at Converse Yard. Otter Tail's position has been endorsed by the STB in its recent decisions.¹³

¹⁰ See Otter Tail Opening at III-C-25, note 39.

¹¹ Otter Tail notes that although there is no need for a locomotive fueling and servicing facility at Converse, Otter Tail has included the costs associated with locomotive fueling and servicing needs in its development of the OTRR's operating costs. Specifically, Otter Tail has included the fuel and servicing costs for the trains interchanged with BNSF at Converse through the application of unit costs per locomotive unit-mile ("LUM") to the LUM generated by the locomotives on these trains while on OTRR trackage. To the extent that these locomotives are fueled and serviced by BNSF at Guernsey, the OTRR would pay BNSF for the fuel and servicing associated with the LUM generated while on the OTRR.

¹² See Otter Tail Rebuttal at III-F-175.

¹³ See Duke-NS at 118; CP&L at 102; and Xcel at 113.

Second, there should be relatively few, if any, bad-order cars found during the inspection performed by the OTRR at Converse Yard. As noted by Otter Tail on Opening¹⁴, the empty trains received from BNSF at Converse Yard have been fully inspected by BNSF at Guernsey Yard, 102 miles from Converse, and all bad-order cars should be removed there. Therefore, there is no need for the car storage tracks included by BNSF.

Finally, Otter Tail does not believe that the one additional inspection/interchange track added by BNSF is necessary. As discussed by Otter Tail at III-C-47 and 48 of its Rebuttal, a full FRA-certified inspection of empties received from BNSF at Converse Yard is not required by any regulation, nor is it common practice in the industry, simply because the OTRR originates the traffic. Therefore, BNSF's dwell times are overstated and it is quite possible that, with reduced dwell times, the additional track would not be necessary. In fact, this is born out by Otter Tail's RTC Model runs which demonstrated that Converse Yard, as configured by Otter Tail on Opening, is sufficiently sized to handle the traffic moving through it.

4. Other

At pages III.B-2 to III.B-8 of its March 1, 2005 Supplemental filing, BNSF explains the steps it performed to set-up and run its RTC simulations for its Supplemental Evidence. In addition to the mainline track and yard track that BNSF added to the PRB portion of the OTRR system, which have already been addressed, *supra*, BNSF made one other significant change between its March 22, 2004 Supplemental Reply and its March 1, 2005 Supplemental Evidence RTC simulations. BNSF contends that, due to the additional volume of traffic traveling south to Converse, yard dwell times

¹⁴ See Otter Tail Opening at III-C-21 and III-C-25, note 39.

for empty coal trains at Converse Yard need to be increased from three (3) hours to six (6) hours.¹⁵ After making these changes, BNSF then presumably validated its OTRR operating plan and track structure through its RTC simulation. A review of the simulation's inputs shows that BNSF did not make all the changes it contends and, when all changes are made, the BNSF's RTC simulation is infeasible.

BNSF asserts that all empty coal trains entering the Converse Yard require six hours of dwell time. A review of the train input file for BNSF's final simulation shows, however, that six (6) trains do not dwell in the Converse Yard for six (6) hours, but instead dwell for only three (3) hours.¹⁶ To test whether BNSF's system would still be valid if BNSF's own dwell times were corrected, OTP reran BNSF's RTC simulation with the dwell time on the six trains corrected. The result of the correction to BNSF's train inputs is that the RTC model "locks-up" when run, indicating the system presented by BNSF is infeasible.¹⁷

¹⁵ As Otter Tail explains in Section III-C, *infra*, BNSF's need to double the yard dwell times from its already overstated estimate of three hours per train is unsupported by the facts, and only serves the purpose of artificially increasing the amount of yard track required and inflating transit times.

¹⁶ See BNSF March 1, 2005 Supplemental electronic file "OTRR-Supp-1-05-Scenario-C.TRAIN" at trains E0CDJCPM46A, E0CDJCPM47A, E0CDJCPM48A, E0CDJCRM56A, E0MLMBKM50A and E0MOLBKM58A.

¹⁷ See OTP Supplemental Reply RTC simulation "OTRR-Supp-1-05-Scenario-C (Corrected)."

III-C

OPERATING PLAN

III-C. OPERATING PLAN

The Board's December 13, 2004 decision, directed BNSF to submit Supplemental evidence showing the effect on stand-alone costs if the disputed 85 million tons of southbound coal traffic originating in the southern PRB is included in its OTRR traffic group. To comply with this order, BNSF presented its revised operating plan for its Supplemental Evidence at pages III-C-1 to III-C-4. BNSF's revised operating plan can be summarized as follows. First, BNSF expanded the amount of main-line track and passing sidings required in the OTRR's PRB lines to accommodate BNSF's additional PRB originated traffic. Second, the railroad expanded the number of yard tracks required in the OTRR's Donkey Creek and Converse Yards. Third, BNSF increased the inspection time it claims is required for empty coal trains entering the Converse Yard from 3 hours per train to 6 hours per train. Fourth, BNSF increased the number of round-the-clock two-person switch crews at Donkey Creek and Converse Yards by one and two crews, respectively, and the number of SD-40-2 locomotives in the respective yards by one and three locomotives.

Otter Tail described in Section III-B above, why BNSF's modifications to the OTRR's yard tracks are incorrect and serve no purpose other than to artificially raise the OTRR's SAC. Otter Tail also described in Section III-B above, how when corrections are made to BNSF's RTC simulation of OTRR operations in the PRB, the RTC model shows that BNSF's operating plan is infeasible as modeled. Notwithstanding these facts, BNSF made additional errors, both implicit and explicit, that overstate the OTRR operating statistics developed by BNSF's operating plan, and serve to show that BNSF's operating plan is not valid and must be rejected by the Board.

1. General Parameters

a. Traffic Flow and Interchange Points

BNSF states that no changes were made in the basic operating parameters governing the operations of the OTRR trains.¹ Moreover, BNSF goes onto to claim that “... since the traffic that has been included in this Supplemental Evidence in response to the Board’s December 13, 2004 Decision only uses the OTRR PRB lines, no changes were made to the traffic flow assumptions or operating statistics for other parts of the OTRR.”² While it is true that BNSF made small, but significant changes to its operating plan, its claim that its addition of supplemental traffic in the PRB does not have an impact on other parts of the OTRR is clearly false as demonstrated by Otter Tail’s own Supplemental Evidence.

Otter Tail clearly explained in its Rebuttal Evidence that BNSF’s Reply and Supplemental Reply Evidence was fatally flawed because BNSF did not model the entire OTRR system in its RTC simulation.³ As Otter Tail stated, a modern railroad is a classic example of an integrated system - a group of nodes linked together through a network to provide a common service. Like other integrated systems, disturbances in one part of a rail network can rapidly impact all other parts in relatively quick fashion. To truly test an integrated system like a stand-alone railroad, all major segments of the network must be tested in unison in order to provide valid results.

The validity of this assertion is clearly demonstrated by a review of the Base and Alternative RTC simulation cases in Otter Tail’s Supplemental Evidence. The difference in the two traffic

¹ Notwithstanding BNSF’s changed assumption that empty coal trains entering the Converse Yard now dwell for 6-hours instead of the 3-hours included in BNSF’s Reply and Supplemental Reply Evidence.

² Id.

³ See Otter Tail Rebuttal Evidence at III-B-25 to III-B-27.

groups between Otter Tail's Base and Alternative cases is the addition of 31.7 million tons of southbound coal traffic that originated in the southern PRB and that only uses the OTRR's PRB lines.⁴ If BNSF's claim is true and that the addition of traffic in only the PRB has no impact on other parts of the OTRR system, then average transit times for general freight trains traveling between Fargo and Moran Junction, an OTRR line segment significantly removed from the PRB, would be not be impacted by the additional PRB traffic. As Table III-C-8 below shows, this is clearly not the case.⁵

⁴ See Otter Tail's March 1, 2005 Supplemental Evidence at III-A-3.

⁵ Table III-C-1 to III-C-4 are contained in Otter Tail's Opening evidence, Table III-C-5 is in Otter Tail's Rebuttal evidence and Tables III-C-6 and III-C-7 are in Otter Tail's Supplemental Errata.

III-C-8
OTP RTC Model Transit Times In Hours

<u>Train ID</u> (1)	<u>Base Case Time</u> (2)	<u>Alternative Case Time</u> (3)	<u>Difference</u> ^{1/} (4)
<u>Fargo to Moran</u>			
1.	22.0	21.4	0.6
2.	14.3	14.6	- 0.3
3.	13.5	14.0	- 0.4
4.	14.0	14.2	- 0.2
5.	13.9	13.9	0.0
6.	15.3	15.3	0.0
7.	17.7	16.7	1.1
8.	16.1	17.1	- 1.0
9.	15.5	15.3	0.3
10.	15.5	15.0	0.5
11.	15.6	16.3	- 0.8
12.	15.0	15.6	- 0.6
13.	15.6	16.1	- 0.5
14.	16.2	16.2	0.0
15.	17.0	15.6	1.5
16.	13.8	16.3	- 2.5
17.	13.3	13.3	0.0
18.	13.5	13.8	- 0.3
19.	14.0	14.5	- 0.4
20.	13.9	13.2	0.7
21.	14.5	14.5	0.1
22.	13.3	13.5	- 0.1
23.	13.4	13.3	0.1
<u>Moran to Fargo</u>			
24.	20.6	15.9	4.7
25.	21.8	21.8	0.0
26.	16.3	20.5	- 4.2
27.	18.9	19.2	- 0.4
28.	19.1	22.0	- 2.9
29.	17.6	18.1	- 0.4
30.	20.4	20.4	- 0.1
31.	19.2	19.6	- 0.4
32.	19.7	18.1	1.6
33.	19.2	18.3	0.9
34.	21.9	22.2	- 0.3

¹ Column (2) - Column (3).

Source: RTC Route Files.

As shown in Table III-C-8, transit times for Fargo-Moran Junction general freight trains can vary by over four hours with the addition of traffic in the PRB. The reason for this variation is simple. While the additional PRB traffic in the Alternative case never directly interacts with the general freight traffic traveling between Fargo and Moran, the additional PRB traffic's presence is felt on all other parts of the OTRR system due to the integrated nature of the rail network. Therefore, BNSF's assertion that it was unnecessary to adjust traffic flow assumptions and operating statistics with the addition of the additional PRB traffic is incorrect, and the operating statistics generated by its segmented modeling approach is not valid and must be rejected by the Board.

At page III.B-20 of its October 8, 2004 Reply Evidence, BNSF itself accurately summarized the importance of modeling the entire stand-alone railroad.

The true test of a rail capacity analysis model is its ability to perform complex iterative processes to keep track of the many events occurring on a railroad at each moment in time. The model must be able to dispatch and track the movement of trains, and *to adjust for the ripple effect that individual dispatching decisions will have on other trains using the network*. Railroad traffic patterns can be influence by many factors, *including events occurring far beyond the geographic boundaries of a line segment under study*. The RTC Model can process complex train movements and incorporate upstream and downstream events and activities. [emphasis added]

Although BNSF clearly acknowledged and understood that operational changes on one line segment have far reaching impacts upon distant line segments, it inexplicably has chosen not to model the OTRR in a way that captures those impacts.

2. Train Sizes and Train Frequency

i. Train Sizes and Equipment

BNSF states that it obtained train sizes for the coal traffic added in its Supplemental Evidence from the traffic tapes provided by BNSF in discovery, and that train frequencies are affected by the addition of traffic in its Supplemental Evidence.⁶ Otter Tail accepts that BNSF obtained its train sizes from traffic tapes presented in discovery. As to the frequency of trains in RTC's simulation, Otter Tail must reiterate the point it made in its Rebuttal evidence that BNSF based its peak period calculations on the number of trains traversing the Fargo-Glendive line segment, and not the number of trains operating over the totality of the OTRR system.⁷ Furthermore, BNSF chose the Fargo – Glendive line segment because of the rerouted non-coal traffic that the Board has directed the parties to exclude in this Supplemental evidence. Therefore, it is not possible to state with any certainty that the system modeled by the BNSF can handle the true peak-period traffic flow.

ii. Switch Locomotives and Crews

At page III.C-2 of its Supplemental evidence, BNSF states that it has added one two-person switch crew and one SD40 locomotive at Donkey Creek, in order to accommodate the four additional empty coal trains per day that it inadvertently omitted from the peak period simulation. BNSF claims the additional locomotive and around the clock crew “would be needed to meet new requirements at Donkey Creek” See BNSF Supplemental evidence at III.C-2. BNSF's addition of the SD40 switch locomotive and switch crew is inappropriate for at least three reasons.

⁶ See BNSF Supplemental Evidence at III.C-1

⁷ See Otter Tail Rebuttal Evidence at III-B-49.

First, page III.C-17 of BNSF's Reply evidence reveals that BNSF accepted Otter Tail's assignment of two SD40 switch locomotives (one active locomotive and one spare locomotive) at Donkey Creek and one two-person switch crew on duty 24 hours a day and that BNSF did not assign switch crews and locomotives to Donkey Creek based on the trains in its peak period simulation.

Second, even if BNSF inadvertently omitted four empty coal trains per day from its peak period simulation, review of its underlying workpapers⁸ shows that, on the average day in the peak year, 13.3 empty coal trains move through Donkey Creek yard. An increase from 13.3 trains per day to 15 empty coal trains per day during the peak week of the peak year would not warrant the assignment of a third SD40 locomotive and a second around the clock switch crew to Donkey Creek yard.

Third, as stated above Otter Tail assigned, and BNSF accepted, the assignment of two SD40 locomotives at Donkey Creek yard. One of the locomotives is an active locomotive and one is a spare locomotive. Even assuming that there are four additional trains per day moving through Donkey Creek yard during the peak week of the peak year, the spare SD40 locomotive could be used to perform any additional switching that may be necessary. Adding a third locomotive to serve the peak requirements when a spare locomotive is already available is yet another intentional overstatement in the OTRR's cost of providing service.

BNSF also adds three SD40 locomotives and two around the clock two-person switch crews at the Converse yard to accommodate the increase in southbound coal traffic interchanged to BNSF at Converse yard. These additional locomotives and switch crews are not required. These crews are added in order to remove bad-order cars from empty coal trains received in interchange from BNSF at Converse. As these trains have been inspected and bad order cars removed by BNSF in Guernsey,

⁸ See BNSF Supplemental Reply electronic workpaper "LUM and carmiles (OTP-BNSF) v3 (Supplemental).xls"

just 102 miles away from Converse, it would be very unusual to find a bad order car that needs to be removed from the train by a switch crew. As stated in Otter Tail's Rebuttal evidence, in the rare event that a bad order car is discovered in an empty train received in interchange from BNSF at Converse, that car would either be repaired by OTRR's mechanical contractor at Converse yard or removed by the road crew.

iii. Road Locomotives

In its Supplemental evidence, BNSF added 37 SD70 road locomotives, for a total of 204 road locomotives, required to serve OTRR's coal traffic. By comparison, in its Supplemental Errata, Otter Tail determined that 139 SD70 road locomotives are required to serve the OTRR's coal traffic.⁹ The difference in the number of SD70 road locomotives between the parties is due to three factors. First, as fully addressed in Otter Tail's Rebuttal evidence, BNSF used a spare margin of percent for SD70 locomotives compared with the percent spare margin used by Otter Tail. See Otter Tail Rebuttal at III-C-37 to III-C-39.

Second, BNSF applies a 43.5 percent peaking factor to the number of locomotives that it determined to be required in order to have sufficient locomotives for the peak day of the peak year of its analysis. As fully discussed in Otter Tail's Rebuttal evidence, BNSF's 43.5 percent peaking factor vastly overstates the OTRR's locomotive requirements. See Otter Tail Rebuttal evidence at III-C-39 to III-C-42. Otter Tail uses a 6.7 percent peaking factor to ensure that the OTRR has sufficient road locomotives to handle its traffic.

⁹ The 139 SD70 road locomotives is from Otter Tail's RTC Alternative Case – Exclusions as it compares with the traffic group included in BNSF's supplemental evidence.

It should be noted that in its January 19, 2005 decision in Xcel, the Board rejected BNSF's locomotive peaking factor, dismissing BNSF's argument that the SARR should have sufficient locomotives capable of handling peak day traffic as unrealistic. Instead the Board determined the SARR should have sufficient locomotives to handle the peak week's traffic and used a 7-day rolling average of train starts in the peak year to determine the number of trains per day and divided this by the average number of train starts for the entire year. See Xcel, January 19, 2005 at 13.

Finally, BNSF's number of SD70 road locomotives are overstated because of its overstated cycle times. As discussed in the section III.C.2, intra, BNSF greatly overstates cycle times through the use of excessive dwell times in yards, systematically double counting transit times, and ignoring the results of its own RTC analysis by replacing many of the transit times produced by that analysis with its own higher "real world" transit times.

iv. OTRR Provided Railcars

In its Supplemental evidence, BNSF added 213 coal railcars, for a total of 1,936 railcars, required to serve OTRR's coal traffic. By comparison, in its Supplemental Errata, Otter Tail determined that 708 railcars are required to serve the OTRR's coal traffic.¹⁰ The difference in the number of coal railcars between the parties is due to the same three factors discussed above with regard to SD70 road locomotives and one additional factor. As discussed in Otter Tail's Rebuttal evidence, BNSF overstated the number of railcars to be provided by the OTRR by misidentifying those customers included in the OTRR traffic group where BNSF provides railcars. See Otter Tail's Rebuttal at pages III-C-42 through III-C-45.

¹⁰ The 708 coal railcars is from Otter Tail's RTC Alternative Case – Exclusions as it compares with the traffic group included in BNSF's supplemental evidence.

2. Cycle Times

a. Development of Cycle Times

BNSF states that it based its cycle times for trains operating in the PRB on transit times it obtained from its Supplemental Evidence RTC model.¹¹ Furthermore, BNSF argues that since the traffic group changes at issue in the BNSF's Supplemental Evidence did not affect any segments of the OTRR other than the PRB lines, no changes were made to the transit times of other OTRR segments.¹² As discussed in Section C.1.a above, BNSF's assertion that transit times for non-PRB segments of the OTRR are not impacted by the addition of traffic in the PRB is clearly false. Moreover, BNSF made numerous other errors in its cycle time calculations that result in overstated OTRR cycle times for trains operating over both the PRB and non-PRB sections of the OTRR. As a result of these overstatements, BNSF's operating plan is not valid and must be rejected by the Board. Each of BNSF's errors and overstatements in the OTRR cycle times are discussed below.

i. BNSF Ignored Transit Times Produced By Its RTC Simulation

BNSF states that it used the RTC model to develop transit times for trains operating in the PRB.¹³ In actuality, in several cases, BNSF ignored the transit times produced by the RTC model, and instead substituted so-called "real world" transit times for use in its cycle time calculations. The result of the substitutions was to inflate BNSF's already overstated cycle times.

An example of BNSF's error is the calculation of transit times for coal trains moving between Gillette and the Buckskin mine located on the Eagle Butte Branch. BNSF substituted its "real

¹¹ See BNSF Supplemental Evidence at III.C-2

¹² See BNSF Supplemental Evidence at III.C-3

¹³ See BNSF Supplemental Evidence at III.C-2

world” transit times for loaded and empty coal trains traveling between Gillette and the Buckskin Mine, even though trains moving over this route were included in BNSF’s RTC simulation.¹⁴ BNSF asserted that loaded and empty coal trains moving between Gillette and the Buckskin mine had combined transit times of hours based on its 4Q 2002 coal train performance reports.¹⁵ However, according to the transit times generated by the BNSF’s RTC simulation, the average combined times for loaded and empty coal trains traveling between the Buckskin Mine and Gillette is hours, or 41.3 percent less than that claimed by BNSF.¹⁶ The impact of BNSF’s overstatement is to overstate overall cycle times for trains originating at Buckskin by up to 6.7 percent.¹⁷

The line segment between Gillette and the mines on the Eagle Butte Branch was not the only OTRR line segment in which BNSF ignored the results of its RTC simulation. Rather than using Gillette to Donkey Creek coal train transit times developed by its RTC simulation to calculate its annual service units, BNSF instead relied upon its 4Q 2002 “real-world” average transit times between the two locations.¹⁸ BNSF’s Supplemental Evidence workpapers shows that coal trains traveling between Donkey Creek and Gillette require hours, and coal trains moving between Gillette and Donkey Creek require hours based on BNSF’s 2002 coal train transit time reports.¹⁹ BNSF’s workpapers show, however, that it in fact did calculate transit times for coal trains moving

¹⁴ BNSF substituted its own “real world” transit times for all trains originating on the Eagle Butte Branch and in doing so overstated the transit time on all of these trains by 41.3 percent.

¹⁵ See BNSF Supplemental Evidence electronic file “Transit Times For Model v1 (Supp Evidence).xls,” worksheet “Full Transit Times For Analysis,” cells AQ6 and AR6.

¹⁶ See Otter Tail Supplemental Reply Evidence electronic workpaper “Gillette Transit Times.xls,” worksheet “Actual Transit Times.”

¹⁷ See Otter Tail Supplemental Evidence Reply electronic file “BNSF Overstated Transit Times.xls.”

¹⁸ BNSF summarizes its Supplemental Evidence transit time data in its electronic file “Transit Times For Model v1 (Supp Evidence).xls.”

¹⁹ See BNSF Supplemental Evidence electronic file “Transit Times For Model v1 (Supp Evidence).xls,” worksheet “Full Transit Times For Analysis,” cells BC6 and BD6.

between Donkey Creek and Gillette using the RTC model simulation, but chose to ignore these statistics. BNSF's workpapers show that the RTC model produces transit times that were hours less per train on a combined basis than BNSF's real world transit times.²⁰ The result of using actual, inefficient "real world" transit times instead of times developed by BNSF's RTC model is to overstate overall cycle times for trains moving over this segment by up to 2.5 percent.²¹

**ii. BNSF Double Counted Transit
Times for Westbound Trains
Originating on the Eagle Butte Branch**

BNSF developed its OTRR cycle times on an origin destination pair basis by adding together transit times for trains operating over contiguous segments of the OTRR route.²² By using this formulaic approach instead of modeling the entire OTRR system, BNSF ended-up, in some instances, double counting transit times for trains operating over contiguous segments.

BNSF's double count occurred on all trains loading at mines on the Eagle Butte Branch and destined to interchange at Jones Junction, Fargo, and Benson, and for unloading at Otter Tail's Big Stone Station. For each of these movements, BNSF used its "real world" transit time for loaded and empty trains moving between the Eagle Butte Branch mines and Gillette, WY.²³ BNSF then added to this transit time for each train its "real world" transit time of hours for moving between the Donkey Creek yard and Gillette.²⁴ As the transit times from Eagle Butte mines to Gillette already

²⁰ See BNSF Supplemental Evidence electronic file "Transit Times For Model v1 (Supp Evidence).xls," worksheet "RTC Mine Transit Times," cells E41 and H41. Based on the BNSF's RTC model, the combined transit time between Gillette and Donkey Creek is hours, or hours less than BNSF's 2002 transit time data.

²¹ See Otter Tail Supplemental Evidence Reply electronic file "BNSF Overstated Transit Times.xls."

²² See BNSF Supplemental Evidence electronic file "LUMS and Carmiles (OTP-BNSF) (Supp Evidence).xls," worksheet "Coal Crew Districts."

²³ *Id.* at Column (BU). As discussed in the previous section, BNSF chose to ignore the transit times produced by its RTC simulation of the Eagle Butte Branch and instead substituted it higher "real world" transit times for trains moving on this segment.

²⁴ See BNSF Supplemental Evidence electronic file "LUMS and Carmiles (OTP-BNSF) (Supp Evidence).xls," worksheet "Coal Crew Districts" at Column (BY).

include the required time to reach Gillette, adding more time simply overstates the time and the resulting statistics. The impact of this double count is to increase the combined transit time for these trains by up to 6 percent.²⁵

**iii. BNSF Double Counted Times to
Add and Remove Helper Locomotives**

In its operating statistics spreadsheet, BNSF included anywhere from 0.25 to 1.25 hours, depending on the route of movement, to add and remove helper locomotives.²⁶ While Otter Tail agrees that the time to add and remove helper locomotives must be accounted for, BNSF's addition of extra helper time in its operating statistics spreadsheet double counts this helper time, which already is accounted for in the time required to add and remove helper locomotives in BNSF's RTC simulations, and in the "real world" transit times BNSF used for those segments that it erroneously chose not to model.

This double count of the time to add and remove helper locomotives is readily observable in BNSF's workpapers. For example, a review of BNSF's RTC train input for train "

, " a loaded coal train operating between the Black Thunder Mine and Donkey Creek, shows that the train stops once for 15 minutes to add a helper locomotive at RTC node ORN3753, and stops again at RTC node ORN4300 for 15 minutes to remove the locomotive.²⁷ A quick scan of the BNSF's RTC train input file shows that BNSF correctly added the time to add and

²⁵ See Otter Tail Supplemental Evidence Reply electronic file "BNSF Overstated Transit Times.xls."

²⁶ See BNSF Supplemental Evidence electronic file "LUMS and Carmiles (OTP-BNSF) (Supp Evidence).xls," worksheet "Coal Crew Districts," cells CG236 to CK237. For example, a loaded train traveling from the Buckskin mine to interchange at Converse would incur 15 minutes of dwell time to remove the helper unit at Belle Ayr Junction, while a train traveling from the Black Thunder Mine to interchange at Fargo would incur 30 minutes of dwell time to add and remove helper locomotives on the Orin Line, 30 minutes to add and remove helper locomotives between Clearmont and Parkman, and 15 minutes to remove the Fryberg helper

²⁷ See BNSF Supplemental Evidence electronic file "OTRR-Supp-1-05-Scenario-C. TRAIN."

remove helper locomotives to all trains that used helper service in the PRB. However, BNSF's operating statistics spreadsheet shows that BNSF added additional time to add and remove the helper locomotives for those trains it modeled in its RTC simulation.²⁸

Moreover, BNSF made similar errors for trains traveling between Gillette and Moran Junction. As BNSF failed to model this segment of the OTRR in its RTC simulation, it relied upon its Quarterly Unit Coal Train Performance Report for Fourth Quarter 2002 to develop coal transit times for loaded coal trains traveling between Gillette and Moran Junction.²⁹ BNSF then added to this transit time the time required to add and remove helpers for all coal trains moving on this segment. As the OTRR replicates BNSF's actual helper service on trains traveling between Gillette and Moran Junction, its "real world" transit times already include the time required to add and remove helper locomotives on this line segment. Therefore it is a double count of transit time for BNSF to add more time to its actual transit time for adding and removing locomotives. This double count results in an overstatement of the number of locomotives and railcars required by the OTRR.

**iv. BNSF Double Counted Crew
Change Time At The Glendive Yard**

BNSF states that it requires 6 hours of dwell time at the Glendive Yard to inspect empty coal trains, switch-out bad order cars, and change crews.³⁰ One can also see in its RTC simulation of the Glendive to Fargo line segment that BNSF added six hours of dwell time in its RTC model for empty coal trains arriving at Glendive.³¹ However, in developing its operating statistics spreadsheet, BNSF

²⁸ See BNSF Supplemental Evidence electronic file "LUMS and Carmiles (OTP-BNSF) (Supp Evidence).xls," worksheet "Coal Crew Districts," cells CG236 to CH237.

²⁹ See BNSF Supplemental Evidence electronic file "segment times.xls," worksheet "Donkey Creek-Glendive," cells N13 and N15. In BNSF's Unit Coal Train Performance Report, Moran Junction is listed as "Huntley."

³⁰ See BNSF Reply Evidence at III.C-36.

³¹ See BNSF Supplemental Reply electronic file "Glen-Fargo Supplemental 4.TRAIN."

added to its six hours of dwell time at the Glendive Yard for train inspection and crew change, an additional hour for crew change time for a total of seven hours of dwell time for all empty coal trains.³² BNSF thereby overstates Glendive Yard dwell times by 17 percent for empty coal trains, again resulting in an overstatement of the number of locomotives and railcars required by the OTRR.

**v. BNSF's Converse Yard Inspection Time
Is Dramatically Overstated and Ignores
BNSF's Own Train Cycle Data and Operations**

BNSF contends that, due to the increased empty train volume through the Converse Yard, the required dwell time for the initial terminal inspection and servicing should increase from the three hours BNSF used in its Reply Evidence to six hours, the same amount of time BNSF states is required for inspections and servicing locomotives at the Glendive and Donkey Creek Yards.³³ As Otter Tail explained in its Rebuttal evidence, BNSF's assertion that six hours of dwell time for inspection and servicing is greatly overstated.³⁴

BNSF stated in its Reply evidence that six hours are required for empty coal trains based on the assumptions of BNSF's witness Mr. Mueller. Mr. Mueller's assumptions are based on his experience or his notes of the operations at the BNSF's Alliance Yard.³⁵ Otter Tail's Rebuttal evidence explained how BNSF's operating witness Mueller erroneously assumed that all inspection functions performed in OTRR yards must be done sequentially. This is simply not the case as many of the functions described by Mr. Mueller, such as removal of head-end and DP locomotives and inspection and repair of railcars, can be performed concurrently.

³² See BNSF Supplemental Evidence electronic file "LUMS and Carmiles (OTP-BNSF) (Supp Evidence).xls," worksheet "Coal Crew Districts," Column (CK).

³³ See BNSF Supplemental Evidence at III.B-13.

³⁴ See Otter Tail Rebuttal Evidence at III.C-31.

³⁵ See BNSF Reply at III.C-28 to III.C-29.

More importantly, the OTRR will not operate as the BNSF does at Alliance Yard. BNSF's operating philosophy for moving (and holding) coal trains in yards is different than that planned for the OTRR. BNSF "holds" trains intentionally and calls it "dwell" time. As pointed out by the Board in TMPA, referring to the BNSF's dwell time for the stand-alone railroad in Guernsey Yard, "We are not persuaded that GCRR's Guernsey yard would need to function in the same fashion as do BNSF's Guernsey or Alliance Yards, nor that the required activities at GCRR's Guernsey yard would need to be done sequentially."³⁶ It is clear that the OTRR does not have to mimic BNSF's operations at its Alliance Yard as BNSF proposes.

Moreover, BNSF's imposition of six hours of inspection time for empty coal trains interchanged at Converse Yard ignores the realities of BNSF's own operations. Otter Tail pointed out in its Opening evidence that a full team of car inspectors on duty around-the-clock at Converse is not necessary as the rail cars will be on the OTRR for only a total of approximately 70 miles from Converse to the mines and return. Moreover, BNSF will have performed a FRA-certified inspection of the empty train in Guernsey, a distance of 102 miles from Converse. Therefore, the incidence of finding a bad order car on an incoming empty train at Converse is minimal.³⁷ Given the short distances trains entering the system at Converse will travel on the OTRR and the fact that there is little likelihood of finding bad-order cars on the incoming trains, the six hours of inspection time BNSF proposes goes beyond the pale of reasonableness.

In addition to FRA-certified inspections in Guernsey yard, BNSF will have fueled and serviced the locomotives on empty coal trains that move to Converse for interchange with the OTRR.

³⁶ See TMPA at 76.

³⁷ See Otter Tail Opening Evidence at III-C-25.

BNSF's assumption that the OTRR would again remove the locomotives at Converse for fueling and servicing is absurd.

Finally, because BNSF did not use the RTC model to simulate the complete OTRR system and because of BNSF's systematic overstatement of the OTRR transit times through double counts of transit time and substitution of its own "real world" transit time for those produced for the segments it did simulate with the RTC model, BNSF's operating plan is not valid and must be rejected by the Board.

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III-D

OPERATING COSTS

III-D. OPERATING EXPENSES

In its March 1, 2005 Supplemental evidence, modified by the March 14, 2005 Errata, Otter Tail presented stand-alone cost evidence for the OTRR based on two scenarios: 1) the Base Case using the RTC model and excluding the rerouted non-coal traffic (“RTC Base Case – Exclusions”); and 2) the Alternative Case using the RTC model and excluding the rerouted non-coal traffic (“RTC Alternative Case – Exclusions”). These are the same two scenarios included in Otter Tail’s Rebuttal evidence and have been modified at the Board’s December 13, 2004 directive, to remove the 13.7 million tons of rerouted non-coal traffic moving on the OTRR between Snowden, Montana and Fargo, North Dakota.¹

The Board’s December 13, 2004 order directed BNSF to include in its Supplemental evidence the 85 million tons of southbound coal originating at the Cordero mine and mines south of Cordero. BNSF’s March 1, 2005 Supplemental evidence modifies its Supplemental Reply evidence in order to comply with the Board’s directive.² Table III-D-46,³ below, summarizes the differences between the OTRR’s operating expenses under both alternatives presented in Otter Tail’s Supplemental Errata evidence and BNSF’s Supplemental evidence.

¹ The Base Case relies on market based divisions to determine revenues for cross-over traffic and excludes any shipments where less than 1.1 percent of the through movement is on the OTRR. The Alternative Case uses the Board’s MSP division methodology to determine revenues for cross-over traffic and includes shipments where less than 1.1 percent of the through movement is on the OTRR.

² BNSF’s Supplemental Reply evidence does not include the rerouted non-coal traffic.

³ Tables III-D-1 through III-D-9 appear in Otter Tail’s Opening evidence, Table III-D-11 through III-D-32 appear in Otter Tail’s Rebuttal evidence and Tables III-D-33 through III-D-45 appear in Otter Tail’s March 14, 2005 Supplemental Errata evidence.

Table III-D-46
Comparison of Otter Tail and BNSF Annual Operating Expenses For The OTRR -- 2002
(\$ In Million)

Item (1)	Otter Tail Supplemental		BNSF Supp (4)	Difference (5)
	Base Case (2)	Alternative Case (3)		
1. Train and Engine Personnel	\$	\$	\$	\$21.43
2. Trackage Rights	\$	\$	\$	\$0.00
3. Maintenance of Way (spot)	\$	\$	\$	\$51.93
4. Locomotive Fuel and Servicing	\$	\$	\$	\$6.04
5. Locomotive Lease	\$	\$	\$	\$17.28
6. Locomotive Maintenance	\$	\$	\$	\$8.84
7. Operating Personnel Incl. Materials and Supplies	\$	\$	\$	\$7.43
8. Freight Car Expenses	\$	\$	\$	\$11.11
9. Ad Valorem Taxes	\$	\$	\$	\$1.02
10. Loss and Damage	\$	\$	\$	\$(0.13)
11. General and Administrative	\$	\$	\$	\$8.68
12. Insurance	\$	\$	\$	\$12.25
13. Training and Start-up ^{1/}	\$	\$	\$	\$19.28
14. Total	\$184.59	\$189.17	\$363.26	\$174.09

¹ Otter Tail Training and Start-up costs are included in the DCF model rather than being treated as operating expenses.
Source: Column 2: Otter Tail Supplemental Errata, electronic workpaper "Exhibit-III-H-3SP.123"
Column 3: Otter Tail Supplemental Errata, electronic workpaper "Exhibit-III-H-4SP.123"
Column 4: BNSF Supplemental evidence, electronic workpaper "BNSF SUPP EVIDENCE Exhibit-III-H-1.123"
Column 5: Column 4 - Column 3.

The differences in Otter Tail's Supplemental Errata and BNSF's Supplemental evidence are described below under the following topical headings.

1. Locomotives
2. Freight Car Expense

3. Personnel
4. Maintenance of Way
5. Leased Facilities
6. Loss and Damage
7. Insurance
8. Ad Valorem Taxes

1. Locomotives

The number of locomotives required by the OTRR and the differences between those included in Otter Tail's Supplemental Errata and BNSF's Supplemental evidence is discussed in Section III-C, supra.

a. Locomotive Leasing Expense

Locomotive lease expense is discussed at pages III-D-5 through III-D-7 of Otter Tail's Rebuttal evidence and at pages III.D- 1 to III.D-3 of BNSF's Reply evidence. In their Supplemental evidence, the parties continue to use the same unit costs for locomotive leases as used in their respective Reply and Rebuttal filings.

b. Locomotive Maintenance Expense

Locomotive maintenance expense is discussed at pages III-D-8 through III-D-12 of Otter Tail's Rebuttal evidence and pages III.D-3 to III.D-11 of BNSF's Reply evidence. Locomotive maintenance expense is a function of both the number of locomotives and the miles traveled by the locomotives. Both parties continue to use the same locomotive maintenance agreements to develop locomotive maintenance unit costs as used in their Reply and Rebuttal evidence, respectively.

As explained in Otter Tail's Rebuttal, these agreements provide that the maintenance cost per locomotive unit mile varies with usage. The more a locomotive is used each month, the lower the maintenance rate per unit mile. Because of the change in locomotive utilization, the average maintenance cost per locomotive unit mile included in Otter Tail's Supplemental Errata evidence is different than that used in its Rebuttal evidence. Table III-D-47 below shows the average locomotive unit miles per locomotive per month for both SD70 and C44-9 road locomotives and the average locomotive maintenance cost per unit mile included in Otter Tail's Rebuttal and Supplemental Errata evidence and that included in BNSF's Supplemental evidence.

Table III-D-47 Comparison of Road Locomotive Utilization and Locomotive Maintenance Unit Cost per Mile				
<u>Evidentiary Filing</u> (1)	<u>SD70</u>		<u>C44-9</u>	
	<u>LUM/Month</u> (2)	<u>Cost per LUM</u> (3)	<u>LUM/Month</u> (4)	<u>Cost per LUM</u> (5)
1. Otter Tail Rebuttal Base Case	13,309	\$	15,427	\$
2. Otter Tail Rebuttal Alternative Case	12,456	\$	15,427	\$
3. RTC Base Case – Exclusions	11,296	\$	17,674	\$
4. RTC Alternative Case – Exclusions	10,732	\$	17,674	\$
5. BNSF Supplemental Reply	8,696	\$	11,000	\$
6. BNSF Supplemental evidence	7,714	\$	11,000	\$

As shown in Table III-D-47, BNSF's average utilization per unit increased from locomotive unit miles per month in its Supplemental Reply evidence to locomotive unit miles per month in its Supplemental evidence. The locomotive maintenance unit cost did not change

however, because BNSF's average monthly utilization is below the contract minimum of locomotive unit miles per month.

c. Locomotive Operating Expense

Locomotive operating expense includes both locomotive fuel cost and locomotive servicing expense and is discussed at pages III-D-13 through III-D-18 of Otter Tail's Rebuttal evidence and at pages III.D-11 through III.D-20 of BNSF's Reply evidence. In their respective Supplemental evidence, the parties continue to use the same unit cost and consumption rates for locomotive fuel costs and the same locomotive servicing unit costs as used in their respective Reply and Rebuttal filings.

2. Railcars

The changes in the number of railcars required by the OTRR is discussed in Section III-C, supra. Railcar ownership costs are discussed at pages III-D-18 to III-D-26 of Otter Tail's Rebuttal evidence and at pages III.D-20 to III.D-29 of BNSF's Reply evidence. The railcar leasing unit costs for coal cars provided by the OTRR and the methodology for calculating car ownership costs for general freight traffic used by the parties in their Supplemental evidence is the same as that used in their respective Reply and Rebuttal filings.

3. Personnel

a. Operating Personnel

As discussed in Otter Tail's Supplemental Errata, the only operating personnel changes that result from the elimination of the rerouted non-coal traffic from the OTRR traffic group are related to road and switch train crews. In addition to adjusting the number of road and switch crews, BNSF adds three operating positions (eight people) at Converse yard as a result of its addition of the

southbound coal traffic to the OTRR system. Each of BNSF's additions to operating personnel are discussed below.

i. Manager and Assistant of Train Operations

BNSF added one manager of train and locomotive operations and two assistant managers of train and locomotive operations at Converse yard. The use of two assistant managers of train operations is consistent with Otter Tail's Rebuttal evidence, however, Otter Tail locates these two personnel at Reno rather than at Converse Yard. Reno is located 27 miles north of Converse yard, near the Black Thunder mine where the density is greatest along the Orin Line.

ii. Yardmaster

BNSF added one around the clock position of yardmaster at Converse yard (five employees). As explained in Otter Tail's Rebuttal evidence at III-D-29 to 30, including both yardmasters and assistant managers of train operations is redundant and unnecessary staffing and therefore should not be included at Converse yard or any of the yards on the OTRR.

iii. Road Train Crews

In its Supplemental evidence, BNSF increased road train crews by 67 employees from the 411 road train crews in its Supplemental Reply evidence to 478 road train crews in its Supplemental evidence. In both its March 22, 2004 Supplemental Reply and in its March 1, 2005 Supplemental evidence, BNSF determined T&E road crews based on the peak day, annualized to a full year. As discussed in Otter Tail's Rebuttal at pages III-D-31 to III-D-39, BNSF's methodology of determining the number of road train crews substantially overstates the actual OTRR requirements. In effect, BNSF's method assumes that the OTRR must be overstaffed 364 days of the year in order to provide sufficient train crews on the peak day. The Board properly rejected a nearly identical methodology

that BNSF used in Xcel⁴ indicating that BNSF's methodology had the effect that train crews would work only 204 shifts per year when BNSF had agreed that the crews would work 270 shifts per year. The same calculation applied to the 478 road crews proposed by BNSF in its Supplemental evidence shows that BNSF's operating plan results in its T&E crews working only 219 shifts per year in the base year, rather than the 270 shifts per year accepted by BNSF in its Reply evidence. See BNSF Reply evidence at III.D-41.

In Xcel, the Board noted that BNSF's electronic spreadsheets contain two calculations of crew requirements, the one described above, based on the peak period, and a second calculation where BNSF determined the total number of crew starts for the year, then divided these crew starts by 270 shifts per year. See Xcel at 62. In its Supplemental evidence in this proceeding, BNSF's electronic workpapers contain a similar calculation of required road train crew starts for the OTRR, which yields a total of 112,282 crew starts in the peak year.⁵ This number of crew starts yields a total road train crew requirement in the base year of 388 rather than the 478 road train crew personnel included in BNSF's Supplemental evidence. In contrast, when using the OTRR operating plan the OTRR requires 384 road train crew personnel in the RTC Base Case - Exclusions scenario and 407 road train crew personnel in the RTC Alternative Case – Exclusions scenario.

⁴ In Xcel, the Board rejected BNSF's use of three days of the peak traffic week to determine crew requirements rather than the peak day. See Xcel at 61.

⁵ BNSF's electronic workpaper "LUM and carmiles (OTP-BNSF) (Supp Evidence).xls" contains the calculation of road train crew starts required for coal trains in the peak year. The information required to make this calculation for general freight traffic is also included in this spreadsheet, but BNSF did not use the information to make this calculation for general freight crew starts. Otter Tail used BNSF's data to calculate the total OTRR crew starts, based on BNSF's operating plan. This calculation is contained in Otter Tail electronic workpaper "Corrected BNSF Crew Counts.xls".

iv. Switch Crews

In its Supplemental evidence, BNSF added a two-person switch crew, 24 hours per day (eight T&E employees) at Donkey Creek due to an increase of empty trains per day in the peak period from 11 to 15 trains. BNSF inadvertently omitted these trains in its Supplemental Reply RTC analysis. The addition of the switch crew at Donkey Creek is incorrect. The OTRR would not add an additional switch crew for the entire year because of an increase of four trains per day during the peak week. As explained above with regard to road train crews, it is inappropriate to determine annual crew requirements based on the peak period.

In addition to the switch crew BNSF added at Donkey Creek, BNSF added 2 two-person switch crews at Converse Yard (16 employees) due to the added 85 million tons of coal traffic. These crews are added in order to remove bad-order cars from empty coal trains received in interchange from BNSF at Converse. As these trains have been inspected and bad order cars removed by BNSF in Guernsey, just 102 miles away from Converse, it would be very unusual to find a bad order car that needs to be removed from the train by a switch crew. As stated in Otter Tail's Rebuttal evidence, in the rare event that a bad order car is discovered in an empty train received in interchange from BNSF at Converse, that car would either be repaired by OTRR's mechanical contractor at Converse yard or removed by the road crew.⁶

v. Operating Personnel Compensation

The compensation for operating personnel is addressed in Otter Tail's Rebuttal evidence at pages III-D-40 to III-D-48 and in BNSF's Reply at pages III.D-42 to III.D-51. In their Supplemental

⁶ See Otter Tail Rebuttal at pages III-D-52 to III-D-53.

evidence, the parties continue to use the same compensation per position as used in their respective Reply and Rebuttal filings.

vi. Materials and Supplies Operating

Otter Tail addressed materials and supplies operating expense at pages III-D-48 to III-D-52 of its Rebuttal evidence and BNSF addressed materials and supplies operating expense at pages III.D-51 to III.D-52 of its Reply evidence. In their Supplemental evidence, the parties continue to use the same unit costs for materials and supplies operating expense as used in their respective Reply and Rebuttal filings. This expense has been adjusted to reflect the changes in personnel.

b. Non-Operating Personnel

BNSF added one foreman and three inspectors at Converse yard (18 employees). As explained in Otter Tail's Rebuttal evidence, an increase in the number of inspectors at Converse is unnecessary as the cars will be on the OTRR for only a total of approximately 70 miles from Converse to the mine and return. Moreover, BNSF will have performed a FRA-certified inspection of the empty train at Guernsey yard, just 102 miles from Converse. As a result, the inspection required at Converse is minimal and is performed by the road train crew assisted by a car inspector.⁷

BNSF also added one manager of mechanical operations at Converse yard, this position is not required as the OTRR's mechanical contractor at Converse yard is responsible for any duties that would be performed by BNSF's manager of mechanical operations.

In their Supplemental evidence, both parties continue to use the same compensation per position and methodology for determining for materials and supplies – equipment as used in their respective Reply and Rebuttal evidence.

⁷ See Otter Tail's Opening evidence at III-C-25, note 39.

c. General and Administrative Personnel

BNSF added five general and administrative employees due to the addition of 84.5 million tons of southbound coal originating at Cordero or mines south of Cordero that are interchanged to BNSF at Converse. These include two marketing employees, two finance employees and one human resource coordinator.

BNSF added one marketing manager and one marketing analyst due to the addition of 24 new destinations, owned by 14 customers, to the OTRR traffic group. Of these 14 customers, only eight are new customers, each with just one destination. The other six are existing customers, which adds a total of 16 new destinations that previously were not served by the OTRR. OTRR's existing marketing staff is capable of handling the eight new clients and 16 destinations to existing accounts, without the addition of marketing personnel. All of this additional traffic is moving on the OTRR a very short distance, and as explained in Otter Tail's Rebuttal evidence at page III-D-73, BNSF would not allow a short-haul carrier such as the OTRR to take the lead on coal marketing and contract negotiations with its coal customers.

BNSF also added one revenue accounting clerk and one senior financial analyst also due to the addition of new customers and destinations. As explained in Otter Tail's Rebuttal evidence at pages III-D-68 to III-D-69, unit coal train moves are highly repetitive and only a single waybill is involved with revenue division settlements for an entire train. Two additional finance employees are not required to handle the revenues from eight new clients.

Finally, BNSF added one Human resources coordinator due to BNSF's increase to staff. As shown above, BNSF's increase in staff is not required, except for the increase in T&E personnel, and

BNSF has greatly overstated the T&E employees that are necessary. As a result an additional human resources coordinator is not necessary.

In their Supplemental evidence, both parties continue to use the same compensation per position for G&A personnel and the same methodology for determining materials and supplies, General and Administrative outsourced expenses, information technology costs and training and recruiting costs as used in their respective Reply and Rebuttal evidence.

4. Maintenance of Way

In its Supplemental evidence, BNSF adds eight maintenance of way employees due to the addition of 84.5 million tons of southbound coal originating at Cordero or mines south of Cordero that are interchanged to BNSF at Converse. These additional personnel include five track workers, one bridge and building crew member and two signal maintainers

In its Rebuttal evidence, at pages III-D-118 through 123, Otter Tail explains why BNSF's maintenance of way field personnel staffing is vastly overstated. Otter Tail also demonstrates in Rebuttal that its maintenance of way field personnel staffing is very similar to that actually used by WRPI, with similar operations in the same territory and with higher volumes than that moved by the OTRR. As a result, the maintenance of way field staffing proposed by Otter Tail, which includes the movement of the tonnage that BNSF is now adding, is appropriate for the OTRR.

5. Leased Facilities

In their Supplemental evidence, both parties continue to use the same unit costs and methodology for determining leased facility expenses as used in their respective Reply and Rebuttal evidence.

6. Loss and Damage

In their Supplemental evidence, both parties continue to agree on the methodology for determining for loss and damage expense as used in their respective Reply and Rebuttal evidence.

7. Insurance

In their Supplemental evidence, both parties continue to use the same methodology for determining insurance expense as used in their respective Reply and Rebuttal evidence.

8. Ad Valorem Taxes

In their Supplemental evidence, both parties continue to use the same unit costs and methodology for determining ad valorem taxes as used in their respective Reply and Rebuttal evidence.

III-E

NON-ROAD PROPERTY INVESTMENT

III-E. NON-ROAD PROPERTY INVESTMENT

There are no changes to Section III-E contained in Otter Tail's April 29, 2004 Rebuttal Narrative and nothing to address in Section III.E contained in BNSF's March 1, 2005 Supplemental filing.

III-F

ROAD PROPERTY INVESTMENT

III-F. ROAD PROPERTY INVESTMENT FOR THE OTRR

In its March 1, 2005 Supplemental filing, modified by the March 14, 2005 Errata, Otter Tail presented its road property investment evidence for the two previously-described presentations: (1) RTC Base Case - Exclusions; and (2) RTC Alternative Case - Exclusions. In developing its Supplemental evidence, Otter Tail made modifications to its Rebuttal evidence to account for the changes requested of Otter Tail by the STB in its December 13, 2004 and February 18, 2005 decisions in this proceeding. Specifically, these modifications were: (1) the elimination of the rerouted non-coal traffic between Fargo, ND and Snowden, MT; (2) the corresponding elimination of the Glendive, MT to Snowden line segment (including the Snowden Yard); and (3) the changes to the OTRR's facility plan necessitated by the use of the RTC Model.¹ As stated in Otter Tail's Supplemental filing, the OTRR facility plan was the same for both of the Supplemental presentations.²

BNSF's March 1, 2005 Supplemental filing contained its presentation of what the STB requested of BNSF, i.e., a presentation including all of the southbound coal tonnage included by Otter Tail in its Alternative Case. BNSF used its March 22, 2004 Supplemental Reply as the basis for preparing its March 1, 2005 Supplemental filing, as its Supplemental Reply already reflected the exclusion of the rerouted non-coal traffic and the elimination of the Glendive to Snowden line segment.

¹ This included changes to the double track/passing siding, set-out and yard track miles as well as the addition of 2.48 route miles for an additional mine spur, all of which were discussed in Section III-B of Otter Tail's March 14, 2005 Supplemental Errata filing.

² Otter Tail's Base Case relied on BNSF actual divisions to develop the OTRR's revenues. Otter Tail's Alternative Case relied on the STB's Modified Straight Mileage Prorate ("MSP") methodology to develop the OTRR's revenues and included approximately 31 million tons more of southbound coal than the Base Case on a small portion of the OTRR.

Table III-F-23 ³ below compares the total road property investment between Otter Tail's Supplemental Errata filing and BNSF's March 1, 2005 Supplemental filing.⁴

³ Tables III-F-1 through III-F-5 were included in Otter Tail's June 13, 2003 Opening Narrative; Tables III-F-6 through III-F-13 were included in Otter Tail's April 29, 2004 Rebuttal Narrative; and Tables III-F-14 through III-F-22 were included in Otter Tail's March 14, 2005 Supplemental Errata Narrative.

⁴ The details supporting the OTRR road property investment costs for the two Supplemental scenarios were included in Otter Tail's March 14, 2005 Supplemental Errata electronic workpapers as follows: (1) RTC Base Case - Exclusions - "OTRR CONSTRUCTION rebuttal XGF.xls" contained in the III-F-3 folder in the "OTP Reb XGF" directory; and (2) RTC Alternative Case - Exclusions - "OTRR CONSTRUCTION rebuttal XGF.xls" contained in the III-F-3 folder under the "Alternative" folder in the "OTP Reb XGF" directory.

Table III-F-23

Comparison of OTRR Estimated Road Property Investment - Otter Tail
March 14, 2005 Supplemental Errata and BNSF March 1, 2005 Supplemental - 1Q02
(\$ In Millions)

<u>Item</u> (1)	Otter Tail Supplemental <u>Errata</u> (2)	BNSF <u>Supplemental</u> (3)	BNSF Suppl. Over/ (Under) Otter Tail <u>Supplemental</u> (4)
1. Land	\$41.70	\$	\$
2. Roadbed Preparation	586.08		
3. Culverts	25.85		
4. Track			
1. Geotextiles	\$0.31	\$	\$
2. Ballast	56.00		
3. Subballast	34.87		
4. Cross ties	139.66		
5. Rail (incl. welds and comp joints)	170.04		
6. Turnouts (incl. all components)	39.03		
7. Rail lubricators	3.86		
8. Tie plates, clips, spikes and anchors	61.60		
i. Derails and wheel stops	0.06		
j. Material transportation	99.06		
k. Track construction labor	242.82		
5. Tunnels	\$0.00		
6. Bridges			
a. Bridges	\$122.40	\$	\$
b. Walkways on bridges	3.33		
7. Signal, Communications and Other Equipment			
a. Signals - CTC (incl. electric locks)	\$189.49	\$	\$
b. Hot bearing and dragging equipment detectors	2.17		
c. Communications system	12.09		
8. Building and Facilities			
a. Fueling stations	\$13.50	\$	\$
b. Locomotive maintenance	8.98		
c. Car repair facilities	0.00		
d. Station and office buildings	4.44		
e. Roadway buildings	3.96		
9. Public Improvements			
a. Fences	\$17.09	\$	\$
b. Roadway signs	0.39		
c. Highway crossings - material & protection	3.98		
d. Highway crossing overpasses	<u>9.55</u>		
10. Subtotal	\$1,892.31	\$	\$
11. Mobilization	\$43.61	\$	\$
12. Engineering	168.21		
13. Contingency	<u>206.24</u>		
14. Grand Total	\$2,310.37	\$	\$

In this Supplemental Reply, Otter Tail continues to rely on the road property investment included in its March 14, 2005 Supplemental Errata. Many of the differences shown in Table 23 above are caused by the same issues discussed in Otter Tail's April 29, 2004 Rebuttal Narrative and are only referenced, not repeated, in this filing. The changes BNSF made in its road property investment between its March 22, 2004 Supplemental Reply and its March 1, 2005 Supplemental filing that merit additional discussion, however, are addressed below.

1. Land Requirements

In its Supplemental filing, Otter Tail modified its Rebuttal land cost to reflect the elimination of the Glendive to Snowden line segment (including Snowden Yard) and the addition of 2.48 route miles on the Powder River Basin ("PRB") section of the OTRR.⁵ In its Supplemental filing, BNSF made no adjustment to the land value included in its March 22, 2004 Supplemental Reply (which already accounted for the elimination of the Glendive to Snowden line segment).

Otter Tail discussed land requirements and investment costs at pages III-F-5 to III-F-32 of its Rebuttal Evidence. The differences discussed on Rebuttal are still relevant with the exception of issues related specifically to the Glendive to Snowden line segment (including Snowden Yard) as that portion of the OTRR has been eliminated in these Supplemental filings.

2. Roadbed Preparation

In its Supplemental filing, Otter Tail modified its Rebuttal roadbed preparation cost to reflect the net reduction in OTRR track miles and the increase in the route miles on the PRB section of the

⁵ The details supporting the OTRR land requirements and investment costs for the two Supplemental scenarios were included in Otter Tail's March 14, 2005 Supplemental Errata electronic workpapers as follows: (1) RTC Base Case - Exclusions - "OTRR Land Rebuttal XGF.xls" contained in the III-F-1 folder in the "OTP Reb XGF" directory; and (2) RTC Alternative Case - Exclusions - "OTRR Land Rebuttal XGF.xls" contained in the III-F-1 folder under the "Alternative" folder in the "OTP Reb XGF" directory.

OTRR.⁶ In its Supplemental filing, BNSF made adjustments to the roadbed preparation costs included in its March 22, 2004 Supplemental Reply to reflect the additional track miles on the PRB section of the OTRR to handle the additional southbound coal traffic.

Otter Tail discussed roadbed preparation investment expenses at pages III-F-32 to III-F-98 of its Rebuttal Evidence. The differences discussed on Rebuttal are still relevant with the exception of issues related specifically to the Glendive to Snowden line segment (including Snowden Yard). In addition, as discussed in Section III-B, *supra*, BNSF has overstated the track requirements of the OTRR in its Supplemental filing with regard to Donkey Creek Yard, Converse Yard and the Campbell Branch.

Both Otter Tail and BNSF continued to rely on the unit costs used in their respective previous filings modified slightly due to the changes in the location factor adjustments applied to Means unit costs caused by the changes in route miles made in each party's Supplemental filing. However, BNSF made one other modification in its Supplemental filing. Specifically, BNSF added costs for yard drainage and yard access roads for its redesigned Converse Yard based on costs for the same items in Donkey Creek Yard. Otter Tail addressed BNSF's yard access roads and yard drainage costs for Donkey Creek Yard (and other OTRR yards) at III-F-93 through III-F-95 of Rebuttal. Specifically, Otter Tail pointed out that BNSF's unit costs were overstated, its construction specifications excessive and there was no support with regard to the either the amount of drainage

⁶ The details supporting the OTRR roadbed preparation requirements and investment costs for the two Supplemental scenarios were included in Otter Tail's March 14, 2005 Supplemental Errata electronic workpapers as follows: (1) RTC Base Case - Exclusions - "OTRR GRADING Rebuttal XGF.xls" and "OTRR Culverts Rebuttal XGF.xls" contained in the III-F-2 folder in the "OTP Reb XGF" directory; and (2) RTC Alternative Case - Exclusions - "OTRR GRADING Rebuttal XGF.xls" and "OTRR Culverts Rebuttal XGF.xls" contained in the III-F-2 folder under the "Alternative" folder in the "OTP Reb XGF" directory.

included by BNSF or the need for paved yard access roads. In addition to these same criticisms being applicable to BNSF's redesigned Converse Yard, inspection roads are unnecessary at Converse Yard as full inspections are unnecessary for the reasons put forth in Section III-B, supra.

3. Track Construction

In its Supplemental filing, Otter Tail modified its Rebuttal track construction costs to reflect the net reduction in OTRR track miles and the increase in the route miles on the PRB section of the OTRR.⁷ In its Supplemental filing, BNSF made adjustments to the track construction costs included in its March 22, 2004 Supplemental Reply to reflect the additional track miles on the PRB section of the OTRR, and in its redesigned Converse Yard, to handle the additional southbound coal traffic. BNSF also added track on the Campbell Branch and in the Donkey Creek Yard unrelated to the additional southbound coal traffic.

Otter Tail discussed track construction investment expenses at pages III-F-98 to III-F-123 of its Rebuttal Evidence. As BNSF continues to rely on the same unit costs and methodology to develop its track construction costs in its Supplemental filing, the criticisms of BNSF contained in Rebuttal remain relevant. In addition, as discussed in Section III-B, supra, BNSF has overstated the track requirements of the OTRR in its Supplemental filing with regard to Converse Yard, Donkey Creek Yard and the Campbell Branch.

⁷ The details supporting the OTRR track construction requirements and investment costs for the two Supplemental scenarios were included in Otter Tail's March 14, 2005 Supplemental Errata electronic workpapers as follows: (1) RTC Base Case - Exclusions - "OTRR CONSTRUCTION Rebuttal XGF.xls" and other files contained in the III-F-3 folder in the "OTP Reb XGF" directory; and (2) RTC Alternative Case - Exclusions - "OTRR CONSTRUCTION Rebuttal XGF.xls" and other files contained in the III-F-3 folder under the "Alternative" folder in the "OTP Reb XGF" directory.

4. Tunnels

There are no tunnels on the OTRR.

5. Bridges

In its Supplemental filing, Otter Tail modified its Rebuttal bridge construction costs to reflect the net reduction in bridge requirements caused by the reduction in OTRR route and track miles.⁸ In its Supplemental filing, BNSF made no adjustment to the bridge construction costs included in its March 22, 2004 Supplemental Reply (which already accounted for the elimination of the Glendive to Snowden line segment).

Otter Tail discussed bridge requirements, specifications and investment (including bridge walkways) at pages III-F-123 to III-F-148 of its Rebuttal Evidence. As BNSF continues to rely on the same unit costs and methodology to develop its bridge construction costs, the criticisms of BNSF contained in Rebuttal remain relevant with the exception of issues related specifically to the Glendive to Snowden line segment.

6. Signals and Communications

In its Supplemental filing, Otter Tail modified its Rebuttal signals and communications costs to reflect the net reduction in the OTRR's route and track miles.⁹ In its Supplemental filing, BNSF

⁸ The details supporting the OTRR bridge construction requirements and investment costs for the two Supplemental scenarios were included in Otter Tail's March 14, 2005 Supplemental Errata electronic workpapers as follows: (1) Base Case - Exclusions - "OTRR CONSTRUCTION Rebuttal XGF.xls" and the files contained in the III-F-5 folder in the "OTP Reb XGF" directory; and (2) Alternative Case - Exclusions - "OTRR CONSTRUCTION Rebuttal XGF.xls" and the files contained in the III-F-5 folder under the "Alternative" folder in the "OTP Reb XGF" directory.

⁹ The details supporting the OTRR signals and communications requirements and investment costs for the two Supplemental scenarios were included in Otter Tail's March 14, 2005 Supplemental Errata electronic workpapers as follows: (1) RTC Base Case - Exclusions - "OTRR CONSTRUCTION Rebuttal XGF.xls" and the files contained in the III-F-6 folder in the "OTP Reb XGF" directory; and (2) RTC Alternative Case - Exclusions - "OTRR CONSTRUCTION Rebuttal XGF.xls" and the files contained in the III-F-6 folder under the "Alternative" folder in the "OTP Reb XGF" directory.

also modified the signals and communications costs included in its March 22, 2004 Supplemental Reply to reflect the increase in track miles in the PRB and the provision of additional radio communications equipment to BNSF's increased train crew and maintenance-of-way personnel requirements.

Otter Tail discussed signals and communications systems at pages III-F-148 to III-F-166 of its Rebuttal Evidence. The criticisms of BNSF contained in Rebuttal remain applicable to BNSF's Supplemental filing. In addition, as discussed in Section III-D, *supra*, BNSF continues to overstate the train crew and maintenance-of-way personnel requirements for the OTRR.

7. Buildings and Facilities

In its Supplemental filing, Otter Tail modified its Rebuttal building and facilities costs to reflect the elimination of the crew change and maintenance-of-way facilities associated with the Snowden to Glendive line segment (including Snowden Yard).¹⁰ In its Supplemental filing, BNSF made several adjustments to the building and facility costs included in its March 22, 2004 Supplemental Reply (which already accounted for the elimination of the Glendive to Snowden line segment). Specifically, BNSF added a fueling facility (including a waste water treatment plant) and a car repair facility at Converse Yard and expanded the Converse Yard office to accommodate the additional personnel placed at Converse.

¹⁰ The details supporting the OTRR buildings and facilities requirements and investment costs for the two Supplemental scenarios were included in Otter Tail's March 14, 2005 Supplemental Errata electronic workpapers as follows: (1) RTC Base Case - Exclusions - "OTRR CONSTRUCTION Rebuttal XGF.xls" and the files contained in the III-F-7 folder in the "OTP Reb XGF" directory; and (2) RTC Alternative Case - Exclusions - "OTRR CONSTRUCTION Rebuttal XGF.xls" and the files contained in the III-F-7 folder under the "Alternative" folder in the "OTP Reb XGF" directory.

Otter Tail discussed buildings and facilities at pages III-F-166 to III-F-181 of its Rebuttal Evidence. The criticisms of BNSF contained in Rebuttal remain applicable to BNSF's Supplemental filing. In addition, as discussed in Section III-B, supra, there is no need for either a fueling facility or a car repair facility at Converse Yard. Finally, as discussed in Section III-D, supra, BNSF has overstated the OTRR's personnel requirements at Converse Yard resulting in an overstatement in the building requirements.

8. Public Improvements

In its Supplemental filing, Otter Tail modified its Rebuttal public improvement costs, i.e., highway crossings, roadway signs and fencing requirements, to reflect the net reduction in OTRR track miles and the increase in the route miles on the PRB section of the OTRR.¹¹ In its Supplemental filing, BNSF made adjustments to the costs included in its March 22, 2004 Supplemental Reply for these same items to reflect the track miles added on the PRB section of the OTRR to handle the additional southbound coal traffic.

Otter Tail discussed public improvements, including fences, signs and road crossings, at pages III-F-181 and III-F-188 of its Rebuttal Evidence. The criticisms of BNSF contained in Rebuttal remain applicable to BNSF's Supplemental filing.

¹¹ The details supporting the OTRR public improvement requirements and investment costs for the two Supplemental scenarios were included in Otter Tail's March 14, 2005 Supplemental Errata electronic workpapers as follows: (1) RTC Base Case - Exclusions - "OTRR CONSTRUCTION Rebuttal XGF.xls" and the files contained in the III-F-8 folder in the "OTP Reb XGF" directory; and (2) RTC Alternative Case - Exclusions - "OTRR CONSTRUCTION Rebuttal XGF.xls" and the files contained in the III-F-8 folder under the "Alternative" folder in the "OTP Reb XGF" directory.

9. Mobilization, Engineering and Contingency

In its Supplemental filing, Otter Tail continued to rely on the percentages included in its Rebuttal filing to calculate mobilization, engineering and contingency costs and changes in the amounts for these items were due only to changes in investment costs for the other construction items.¹² In its Supplemental filing, BNSF continued to rely on the same percentages and methodology contained in its March 22, 2004 Supplemental Reply for these same items.

Otter Tail discussed mobilization, engineering and contingency expenses at pages III-F-188 to III-F-199 of its Rebuttal Evidence. As BNSF has relied on the same procedures contained in its prior filings, the criticisms of BNSF contained in Rebuttal remain relevant to BNSF's Supplemental filing.

¹² The details supporting the OTRR mobilization, engineering and contingency public improvement requirements and investment costs for the two Supplemental scenarios were included in Otter Tail's March 14, 2005 Supplemental Errata electronic workpapers as follows: (1) RTC Base Case - Exclusions - "OTRR CONSTRUCTION Rebuttal XGF.xls" contained in the III-F-3 folder in the "OTP Reb XGF" directory; and (2) RTC Alternative Case - Exclusions - "OTRR CONSTRUCTION Rebuttal XGF.xls" contained in the III-F-3 folder under the "Alternative" folder in the "OTP Reb XGF" directory.

III-G

DISCOUNTED CASH FLOW ANALYSIS

III-G. APPLICATION OF THE DISCOUNTED CASH FLOW MODEL TO THE OTRR

In Otter Tail's March 1, 2005 Supplemental filing, modified by the March 14, 2005 Errata, Otter Tail relied on the same discounted cash flow ("DCF") model presented in its April 29, 2004 Rebuttal evidence. In BNSF's March 1, 2005 Supplemental filing, BNSF modified the DCF model that had been included in its March 22, 2004 Supplemental Reply. Otter Tail's Rebuttal Section III-G contained its criticisms of BNSF's Reply DCF model. The modifications made by BNSF to its DCF model in its March 1, 2005 Supplemental filing are discussed below.

1. Annual Cost of Capital

Otter Tail discussed the annual cost of capital for the OTRR at pages III-G-1 through III-G-3 of its Rebuttal Evidence. On Rebuttal, Otter Tail updated the cost of equity in the DCF Model to include the 2003 railroad industry cost of equity and this was reflected in the DCF Models included with Otter Tail's Supplemental filing.¹ In its March 1, 2005 Supplemental filing, BNSF revised its March 22, 2004 Supplemental Reply by incorporating the 2003 cost of equity. Both parties now include the 2003 cost of equity in their respective analyses.

2. Inflation Indices

a. Operating Expenses

Otter Tail discussed the indexing of operating expenses at pages III-G-3 through III-G-13 of its Rebuttal Evidence. On Rebuttal, Otter Tail used the RCAF-A index, in contrast to BNSF's use of the RCAF-U index, to adjust operating expenses and provided extensive support for its position.²

¹ Otter Tail also assumed that the OTRR would take advantage of reduced interest rates and refinance its debt in 1Q03. See Otter Tail Rebuttal at III-G-2 and III-G-3. Otter Tail continued to assume this in its Supplemental filing. BNSF's Supplemental filing had no discussion of the OTRR's debt refinancing.

² Otter Tail demonstrated the appropriateness of using the RCAF-A to adjust operating expenses by applying the productivity component of the Energy Information Administration ("EIA") coal transportation rate forecast.

Otter Tail updated the actual RCAF-A indexes used on Opening to 2Q04 to reflect the latest actual data available and also adopted the June 2003 DRI-WEFA forecast of the RCAF-A, provided by BNSF in Reply, in its analysis. In its Supplemental filing, Otter Tail continued to follow its Rebuttal procedures and used the same index values contained in its Rebuttal.

In its March 1, 2005 Supplemental filing, BNSF continued to use the RCAF-U index to adjust operating expenses. However, BNSF made two changes to its March 22, 2004 Supplemental filing. First, BNSF substituted actual RCAF-U values for the first quarter of 2004 ("1Q04") through 1Q05. Second, BNSF substituted a new December 2004 DRI-WEFA forecast of the RCAF-U for the June 2003 forecast used in its Reply filings.

In its Supplemental filing, Otter Tail did not update the RCAF indexes used in its DCF Model from those contained in its Rebuttal filing, i.e., it used actual RCAF-A indexes up through 2Q04 and the DRI-WEFA forecast after that. Otter Tail does not believe that the STB's December 13, 2004 and February 18, 2005 decisions requested that type of change. However, Otter Tail does not take issue with the replacement of forecasted index values with actual index values although Otter Tail believes that the RCAF-A is the proper index, not the RCAF-U. The RCAF index is issued quarterly by the STB and provided to the public. Updating the RCAF indexes has been done by the STB in previous decisions and, most likely, the STB would do the same in this case.³ Given that eventuality, Otter Tail has updated the RCAF-A indexes used in its analysis through 2Q05, the most current time period available.

³ In fact, when the decision is issued in this case, it is likely that the STB will incorporate actual indexes up through the date of the decision.

However, Otter Tail takes issue with BNSF's introduction of a completely new DRI-WEFA forecast. This clearly goes beyond the scope of the STB's decisions requesting the Supplemental Evidence. The STB's directive was for each party to modify their previous filings to reflect changes in the OTRR's traffic group and for Otter Tail to avail itself of the RTC Model if it so desired. There was no directive to submit any new evidence regarding the forecast of indexes. The new DRI-WEFA forecast is not a publicly available document as it can only be obtained through purchase. Absent the BNSF purchasing this new forecast, the STB, in all likelihood, would have updated the RCAF indexes and then used the forecast in the evidence to determine the indexes into the future. BNSF claims that a new forecast has to be used if the actual indexes are updated. This is not true. In fact, the STB has not incorporated a revised forecast in prior decisions where it has updated the RCAF indexes. BNSF's attempt to slip a new forecast into the record "through the back door" should be rejected as it is new evidence.

b. Road Property Assets Other than Land

Otter Tail discussed the indexing of road property assets other than land at pages III-G-13 through III-G-14 of its Rebuttal Evidence. On Rebuttal, Otter Tail used actual Association of American Railroads ("AAR") indexes up through 1Q04 to reflect the most current indexes available. For future indexes, Otter Tail adopted BNSF's June 2003 DRI-WEFA forecast provided in Reply and explained why BNSF's use of historical trends for future inflation was inferior to the use of forecasted indexes.

In its March 1, 2005 Supplemental filing, BNSF updated its March 22, 2004 Supplemental Reply by including the actual annual AAR values for 2003 and 2004. As was the case with the RCAF indexes, the STB has, in the past, updated the AAR indexes in its decisions to reflect the most

current actual data available. Therefore, in this Supplemental Reply, Otter Tail has updated its AAR indexes in the DCF Model to reflect actual indexes through 4Q04. For 2005 and beyond, Otter Tail continues to believe, as the STB did in Duke/NS,⁴ that forecasted inflation indexes are preferable to historical inflation rates. Otter Tail has continued to use the forecasted inflation rates contained in its Rebuttal Evidence, and in its March 1, 2005 Supplemental filing, and not used the DRI-WEFA forecast included in BNSF's March 1, 2005 Supplemental filing as it constitutes impermissible new evidence.

3. Other

In its March 1, 2005 Supplemental filing, BNSF states that it corrected an error in its March 22, 2004 Supplemental Reply DCF Model. Specifically, BNSF corrected an error in the formula for the AAR inflation indexes for quarters 21 through 80. Otter Tail has reviewed BNSF's DCF Model and determined that BNSF did indeed correct an erroneous formula.

⁴ See Duke/NS at 37.

III-H

RESULTS OF SAC ANALYSIS

III-H. RESULTS OF SAC ANALYSIS

1. Results of SAC Analysis

In its March 1, 2005 Supplemental evidence, modified by the March 14, 2005 Errata, Otter Tail calculated OTRR's stand-alone cost of moving coal to the Big Stone Station using the RTC simulation model for its RTC Base Case and its RTC Alternative Case after excluding the rerouted non-coal traffic. In making these calculations, Otter Tail used the same DCF model that was relied on in its Rebuttal evidence.

As discussed in the previous sections of this Supplemental Reply, Otter Tail has made some modifications to its Supplemental evidence based on BNSF's March 1, 2005 Supplemental evidence. Specifically, Otter Tail has made the following modifications:

1. Used the actual tons shipped to Otter Tail's Big Stone plant for 2003 and 2004 in the OTRR revenue calculations;
2. Used the actual tariff rates for Otter Tail's shipments to Big Stone for 2003, 2004 and 2005 in the OTRR revenue calculations;
3. Used the 2005 EIA forecast;
4. Used the actual RCAF-U and RCAF-A indices up through 2Q05 in the OTRR revenue calculations and the DCF Model; and
5. Used the actual AAR indices up through 4Q04 in the DCF Model.

This section summarizes the results of Otter Tail's Supplemental Reply stand-alone analyses.

In Rebuttal, and in its Supplemental evidence, Otter Tail presented two (2) methods to measure productivity that the OTRR would realize over the DCF model life. Table III-H-15¹ below compares

¹ Tables III-H-1 to III-H-3 were included in Otter Tail's June 13, 2003 Opening evidence; Tables III-H-4 to III-H-9 were included in Otter Tail's April 29, 2004 Rebuttal evidence; and Tables III-H-10 through III-H-14 were included in Otter Tail's March 1, 2005 Supplemental evidence.

the impact on stand-alone cost per ton of using the RCAF-A to inflate operating expenses, to the impact of using productivity included in the EIA's 2005 forecast of coal prices (applied only to coal traffic) to inflate operating expenses, and to the impact of using the RCAF-U to inflate operating expenses. In all cases, Table III-H-15 is based on the Otter Tail RTC Base Case – Exclusions scenario for shipments in aluminum cars.

Item (1)	RCAFA ¹ (2)	EIA Productivity Alternative ² (3)	RCAFU ³ (4)
1. 1Q02	\$7.67	\$7.67	\$7.67
2. 4Q06	\$8.14	\$7.94	\$8.61
3. 4Q11	\$8.62	\$8.09	\$9.57
4. 4Q16	\$9.43	\$8.57	\$10.93
5. 4Q21	\$10.40	\$9.20	\$12.55

¹ Supplemental Reply electronic workpaper "Exhibit III-H-3SP.123".
² Supplemental Reply electronic workpaper "Exhibit III-H-3SP EIA.123".
³ Supplemental Reply electronic workpaper "Exhibit III-H-3SP RCAFU.123".

2. Reparations

Otter Tail's revised stand-alone cost calculations presented herein demonstrate that BNSF's tariff rates for the issue traffic are still substantially greater than the levels permitted under both the jurisdictional threshold and stand-alone cost tests.

a. Maximum Rate Calculations

The maximum rate for the movement of coal from each origin to the Big Stone Station equals the greater of the jurisdictional threshold calculation or stand-alone costs. Table III-H-16 compares BNSF's rate levels to the jurisdictional threshold and the stand-alone costs for Otter Tail's Rebuttal Base Case, Rebuttal Alternative Case and Supplemental Reply results for the two scenarios that use the RTC model after excluding the rerouted non-coal traffic for each quarter 1Q02 through 1Q03.

Table III-H-16 Summary of Jurisdictional Threshold and Stand-Alone Rates Per Ton for Issue Traffic in Aluminum Cars -- 1Q02 through 1Q03						
<u>Time Period</u> (1)	<u>BNSF Rate Per Ton¹</u> (2)	<u>Jurisdictional Threshold Per Ton</u> (3)	<u>Stand-Alone Cost</u>			
			<u>4/29/04 Rebuttal</u>		<u>Supplemental Reply RTC Exclusions</u>	
			<u>Base</u> (4)	<u>Alt</u> (5)	<u>Base</u> (8)	<u>Alt</u> (9)
A. <u>1Q02</u>						
1. Belle Ayr	\$13.49	\$9.16	\$8.33	\$10.29	\$7.67	\$9.78
2. Eagle Butte	\$13.49	8.93	8.33	10.29	\$7.67	\$9.78
B. <u>2Q02</u>						
3. Belle Ayr	\$13.49	\$9.23	\$8.24	\$10.17	\$7.58	\$9.67
4. Eagle Butte	\$13.49	9.05	8.24	10.17	\$7.58	\$9.67
C. <u>3Q02</u>						
5. Belle Ayr	\$13.49	\$9.23	\$8.18	\$10.11	\$7.53	\$9.61
6. Eagle Butte	\$13.49	9.11	8.18	10.11	\$7.53	\$9.61
D. <u>4Q02</u>						
7. Belle Ayr	\$13.49	\$9.41	\$8.25	\$10.19	\$7.59	\$9.68
8. Eagle Butte	\$13.49	9.16	8.25	10.19	\$7.59	\$9.68
9. Cordero	\$13.49	9.65	8.25	10.19	\$7.59	\$9.68
10. Caballo Rojo	\$13.49	9.13	8.25	10.19	\$7.59	\$9.68
E. <u>1Q03</u>						
11. Belle Ayr	\$13.76	\$9.92	\$8.01	\$9.88	\$7.35	\$9.36
12. Eagle Butte	\$13.76	9.94	8.01	9.88	\$7.35	\$9.36
¹ Common Carrier Pricing Authority BNSF 90062 for 1Q02 through 4Q02, BNSF 90062A for 1Q03. Source for Column (3) through Column (9): Supplemental Reply electronic workpaper "April 2005 Summary.123".						

In each quarter from 1Q02 through 1Q03, the BNSF rate per ton is greater than both the jurisdictional threshold and stand-alone cost under each scenario. Therefore, the maximum rate equals the greater of the jurisdictional threshold or stand-alone cost. The maximum rates are summarized in Table III-H-17 below for each stand-alone cost scenario for shipments in aluminum cars.

Table III-H-17 Summary of Maximum Rates Per Ton for Issue Traffic in Aluminum Cars -- 1Q02 through 1Q03					
Time Period (1)	BNSF Rate Per Ton ¹ (2)	Maximum Reasonable Rate Per Ton			
		4/29/04 Rebuttal		Supplemental Reply RTC Exclusions	
		Base (3)	Alt (4)	Base (7)	Alt (8)
A. 1Q02					
1. Belle Ayr	\$13.49	\$9.16	\$10.29	\$9.16	\$9.78
2. Eagle Butte	\$13.49	8.93	10.29	\$8.93	\$9.78
B. 2Q02					
3. Belle Ayr	\$13.49	\$9.23	\$10.17	\$9.23	\$9.67
4. Eagle Butte	\$13.49	9.05	10.17	\$9.05	\$9.67
C. 3Q02					
5. Belle Ayr	\$13.49	\$9.23	\$10.11	\$9.23	\$9.61
6. Eagle Butte	\$13.49	9.11	10.11	\$9.11	\$9.61
D. 4Q02					
7. Belle Ayr	\$13.49	\$9.41	\$10.19	\$9.41	\$9.68
8. Eagle Butte	\$13.49	9.16	10.19	\$9.16	\$9.68
9. Cordero	\$13.49	9.65	10.19	\$9.65	\$9.68
10. Caballo Rojo	\$13.49	9.13	10.19	\$9.13	\$9.68
E. 1Q03					
11. Belle Ayr	\$13.76	\$9.92	\$9.92	\$9.92	\$9.92
12. Eagle Butte	\$13.76	9.94	9.94	\$9.94	\$9.94
¹ Common Carrier Pricing Authority BNSF 90062 for 1Q02 through 4Q02, BNSF 90062A for 1Q03.-4. Source for Columns (3) through Column (8) in Supplemental Reply electronic workpaper "April 2005 Summary.123".					

The maximum rates in each quarter are less than BNSF's rate in each quarter and therefore reparations need to be calculated.

b. Reparations Calculation

Using the same methodology as used in Rebuttal, Otter Tail has determined the percent reduction that is applied to its rates based on the results of each stand-alone cost scenario. Table III-H-18 shows the percent reduction that is applied to the 1Q02 through 1Q04 rates of the stand-alone group included in Otter Tail's Rebuttal Base Case, Rebuttal Alternative Base Case, and Supplemental Reply for both scenarios using the RTC model after excluding the rerouted non-coal traffic.

Quarter (1)	<u>4/29/04 Rebuttal</u>		<u>Supplemental Reply RTC – Exclusions</u>	
	<u>Base</u> (2)	<u>Alternative</u> (3)	<u>Base</u> (4)	<u>Alternative</u> (5)
1. 1Q02	39.21%	24.33%	43.17%	27.53%
2. 2Q02	39.92	25.23	43.80%	28.33%
3. 3Q02	40.32	25.73	44.15%	28.78%
4. 4Q02	39.80	25.08	43.76%	28.26%
5. 1Q03	42.73	28.87	46.57%	32.00%
6. 2Q03	41.08	26.82	45.00%	30.01%
7. 3Q03	41.07	26.81	44.97%	29.97%
8. 4Q03	41.09	26.85	44.96%	29.97%
9. 1Q04	40.66	25.90	46.02%	31.43%

Source: Column (2) - Rebuttal Exhibit III-H-3.
Column (3) - Rebuttal Exhibit III-H-4.
Column (4) - Supplemental Reply electronic workpaper "Exhibit III-H-3SP.123".
Column (5) - Supplemental Reply electronic workpaper "Exhibit III-H-4SP.123".

Otter Tail calculated the principal amount of reparations on a movement-by-movement basis, using the greater of the stand-alone cost or the jurisdictional threshold. A summary of these calculations is shown in Table III-H-19 below for the January 1, 2002 through March 28, 2004 period based on each stand-alone cost scenario.²

Table III-H-19				
Principal Amount of Reparations				
Due Otter Tail through March 28, 2004				
(\$ in Millions)				
Quarter (1)	4/29/04 Rebuttal		Supplemental Reply RTC Exclusions	
	Base (2)	Alternative (3)	Base (4)	Alternative (5)
1. 1Q 2002	\$2.5	\$1.8	\$2.5	\$2.1
2. 2Q 2002	2.1	1.6	\$2.1	\$1.8
3. 3Q 2002	1.8	1.4	\$1.8	\$1.7
4. 4Q 2002	1.9	1.5	\$1.9	\$1.7
5. 1Q 2003	2.0	2.0	\$2.0	\$2.0
6. 2Q 2003	1.9	1.8	\$1.9	\$1.9
7. 3Q 2003	2.0	1.9	\$2.0	\$2.1
8. 4Q 2003	1.9	1.8	\$1.9	\$1.9
9. 1Q 2004 ^{1/}	<u>2.2</u>	<u>2.1</u>	<u>\$2.2</u>	<u>\$2.2</u>
10. Total	\$18.3	\$15.9	\$18.3	\$17.4
¹ Through March 28, 2004. Source: Column (2) Rebuttal electronic workpaper "OT Rebuttal Reparations Base.123". Column (3) Rebuttal electronic workpaper "OT Rebuttal Reparationsms Alt.123". Column (4) Supplemental Reply electronic workpaper "OT Rebuttal Reparations Base.123". Column (5) Supplemental Reply electronic workpaper "OT Rebuttal Reparations Alt.123".				

² BNSF began imposing a fuel surcharge on Otter Tail's rate beginning on July 1, 2004. As a result, any reparation calculation for charges subsequent to that date must reflect the difference between the prescribed rate and the rate paid by Otter Tail including the fuel surcharge.

Table III-H-19 above shows, for the period from January 1, 2002 through March 28, 2004, that BNSF owes Otter Tail between \$17.4 and \$18.3 million in principal reparations payments after the rerouted non-coal traffic is excluded.

In addition to the principal amount of reparations, interest from the date of the first unlawful charge needs to be identified and paid to Otter Tail. Otter Tail reserves the right to demonstrate that interest should be calculated by a methodology different from that set forth in 49 C.F.R. Part 1141.1, which is calculated at a rate equivalent to the average yield of the 13 week United States Treasury Bills, compounded quarterly.

As stated in Rebuttal, among other reasons why this methodology is inappropriate in this case, the use of the 13 week Treasury Bill rate would result in windfall profits to BNSF. By applying the Treasury Bill rate (which is 0.870% for the issue date of December 26, 2003) to the principal amount of reparations owed by BNSF, the Board would enable BNSF to reap a substantial monetary benefit from the large disparity between the Treasury Bill rate and BNSF's cost of capital.

IV

WITNESS QUALIFICATIONS

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

OTTER TAIL POWER COMPANY)	
)	
Complainants,)	
)	
v.)	Docket No. 42071
)	
THE BURLINGTON NORTHERN)	
AND SANTA FE RAILWAY)	
COMPANY)	
)	
Defendant.)	

PART IV

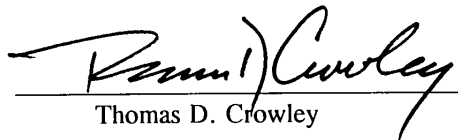
WITNESS VERIFICATIONS

This Part contains the Verifications of the four (4) witnesses sponsoring Otter Tail's Supplemental Reply evidence. Statements of Qualifications for all Otter Tail witnesses appear in Part IV of Otter Tail's Opening Narrative.

VERIFICATION

STATE OF VIRGINIA)
)
CITY OF ALEXANDRIA)

Thomas D. Crowley, being duly sworn, deposes and says that he is the same Thomas D. Crowley whose Statement of Qualifications appears in Part IV of the Narrative portion of the Opening Evidence of Otter Tail Power Company in this proceeding; that he is responsible for the portion of Otter Tail Power Company's Supplemental Reply Evidence in this proceeding related to the SARR traffic group volumes and revenues (Part III-A); the SARR route and track miles (Part III-B); the operation of the RTC Model (Part III-C); the SARR non-road property investment (Part III-E); and the DCF analysis and the results of the SAC analysis (Parts III-G and H); that he knows the content thereof, and that the same are true as stated to the best of his knowledge, information and belief.


Thomas D. Crowley

Sworn to and subscribed before me
this 1st, day of April, 2005



Notary Public for the State of Virginia

My Commission expires September 30, 2007

VERIFICATION

STATE OF VIRGINIA)
)
CITY OF ALEXANDRIA)

Philip H. Burris, being duly sworn, deposes and says that he is the same Philip H. Burris whose Statement of Qualifications appears in Part IV of the Narrative portion of the Opening Evidence of Otter Tail Power Company in this proceeding; that he is responsible for the portion of Otter Tail Power Company's Supplemental Reply Evidence in this proceeding related to the operating expenses of the SARR (Part III-D); and the land investment for the SARR (Part III-F-1); that he knows the content thereof, and that the same are true as stated to the best of his knowledge, information and belief.



Philip H. Burris

Sworn to and subscribed before me
this 1st, day of April, 2005



Notary Public for the State of Virginia

My Commission expires September 30, 2007

VERIFICATION

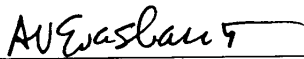
STATE OF VIRGINIA)
)
CITY OF ALEXANDRIA)

Charles A. Stedman, being duly sworn, deposes and says that he is the same Charles A. Stedman whose Statement of Qualifications appears in Part IV of the Narrative portion of the Opening Evidence of Otter Tail Power Company in this proceeding; that he is responsible for the portion of Otter Tail Power Company's Supplemental Reply Evidence in this proceeding related to the SARR investment excluding land (Parts III-F-2 through 9); that he knows the content thereof, and that the same are true as stated to the best of his knowledge, information and belief.



Charles A. Stedman

Sworn to and subscribed before me
this 1st, day of April, 2005



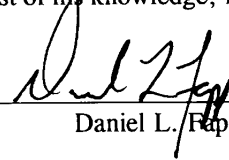
Notary Public for the State of Virginia

My Commission expires September 30, 2007

VERIFICATION


STATE OF VIRGINIA)
)
CITY OF ALEXANDRIA)

Daniel L. Fapp, being duly sworn, deposes and says that he is the same Daniel L. Fapp whose Statement of Qualifications appears in Part IV of the Narrative portion of the Opening Evidence of Otter Tail Power Company in this proceeding; that he is responsible for the portion of Otter Tail Power Company's Supplemental Reply Evidence in this proceeding related to the operation and critique of BNSF's RTC Model (Parts III-B-4 and III-C); that he knows the content thereof, and that the same are true as stated to the best of his knowledge, information and belief.



Daniel L. Fapp

Sworn to and subscribed before me
this 1st, day of April, 2005




Notary Public for the State of Virginia

My Commission expires September 30, 2007

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of April, 2005, I served a copy of "Complainant's Supplemental Reply Evidence in Response to the March 1, 2005 Supplemental Evidence of BNSF Railway Company" (Public version) by hand delivery to counsel for Defendant at the following address:

Samuel M. Sipe, Jr., Esq.
Anthony J. LaRocca, Esq.
Frederick J. Horne, Esq.
Steptoe & Johnson
1330 Connecticut Avenue, NW
Washington, DC 20036


Sharon McDonald